

# **JIHAD IN ISLAM**

**A COMPARATIVE STUDY OF  
THE OBJECTIVES AND LAWS OF WAR IN ISLAM  
WITH THOSE IN OTHER CULTURES, RELIGIONS  
AND MODERN WESTERN POLITICAL SYSTEM**

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*In the Name of Allah, the Beneficent, the Merciful!*

## A NOTE FROM THE PUBLISHER

The 150-year old slavery and servitude of the West has created and left such a dominant but false perception of Jihad upon our minds that whenever it is mentioned, we cringe at the very mention of it and tend to be defensive. Particularly, prior to Independence, many of the learned Islamic scholars used to get bewildered and terrified by the mere mention of Jihad. At such a time of mental and physical servility, Moulana Abul A`la Maududi had the courage to write about Jihad. He wrote a scholarly and well-researched book, *Al-Jihad fil-Islam*, in Urdu which has been acclaimed by both his adherents and opponents; it will not be out of place to say that in no other language of the world such a book on this topic is available. Therefore, now it is being translated and presented in English so that its reach could be widened and the wrong perceptions about Jihad which are increasingly being propagated by the Western and non-Islamic media could be countered and a true perception of Jihad in Islam is presented before the world.

The particularity of this book is that although it was written in 1927 by Moulana Maududi and was his very first regular book, the topics discussed in the book are as relevant today as they were at the time of publication of its first edition.

## PREFACE TO THE FIRST EDITION

One of the false and most serious accusations that Europe has forged against Islam for its political designs is that Islam is a blood-thirsty religion and preaches bloodshed to its followers. Had there been an iota of truth in this accusation, it should have been made at the time when the swords of the followers of Islam were causing consternation on the face of the earth. At that time, the world could have really believed that perhaps their triumphant advances were the results of its bloodthirsty teachings and doctrines. However, it is strange that this accusation took its birth long after the decline of the rising sun of Islam. The soul in this imaginary effigy was breathed at the time when the sword of Islam had got rusted and the swords of the author of this accusation, the Europe, was getting bloodier and bloodier with the blood of the innocents, and it was swallowing the weaker nations and countries of the world as a python swallows smaller animals.

If the world had any sense it would have questioned what right these people have, who themselves are the worst enemies of peace, who have painted crimson the surface of the earth with continuous bloodshed, and who have been robbing the other nations indiscriminately, to accuse Islam of bloodshed when actually they should have been charged with this crime. Or, is the purpose of all this so-called historical research and investigation and learned discussion and disclosure is nothing but to divert the flood of hatred and displeasure towards Islam which, they fear, might have otherwise rose against them because of their bloodshed and atrocities?

However, it is a natural weakness of man that when he is subdued on the battle-field, he gets subdued in the

literary field too; he cannot confront and resist the pen of those whose sword has defeated him. Therefore, in every age only those ideals and opinions remain supreme and dominant which are presented with a pen packed with a sword and backed by its power. Hence, Europe has been successful in blinding the world on this issue too, and the nations with servitude minds, accepted the theory of Islamic Jihad presented by Europe without bothering to investigate and verify a little about the issue or even deliberate a little on it; they have accepted it as if it was a revelation from God though even revelation from God is not so easily accepted.

In the past and the present centuries, Muslims have countered this accusation many a times and so much has been written on this issue that now it looks like a beaten and worn out issue. But in most of such responsive writings, I have noticed a defect; the advocates of Islam, overwhelmed by their opponents, voluntarily go and stand in the dock and begin plead their defence as if they are criminals and have committed a grave crime. Some of them, to make their case strong, have even amended the Islamic teachings and Islamic laws, and in a state of utter dread, have even removed from the record all such things which they thought to be appalling so that they could be hidden from the opponents. But even in the writings of those who have not adopted this weak strategy, at least one defect is found; that is they do not present the Islamic teachings about Jihad and war more clearly, and leave many of its facets untouched in such a manner that there is always room for confusion and ambiguity.

To remove the misunderstandings, it is necessary to present the Islamic teachings and laws about Jihad in the Cause of Allah, and prosecution of war for the supremacy and pre-eminence of the Word of Allah as they have been described in the Holy Quran, the Traditions of the Prophet (peace be upon him) and in the books of Islamic

jurisprudence without any additions or deletions; nothing should be added on or deleted from them, nor the real purpose of Islam and the spirit of its teachings should be tried to be changed. Principally, I am opposed to the method of presenting our beliefs and principles to suit the viewpoints of others. There is not even a single issue in the world on which everyone would converge on a single viewpoint. Each group has its own different viewpoint and considers it to be the correct one: كُلٌّ حِزْبٌ بِمَا لَكُمُ فِيهِ غُرُوحٌ ("Each party rejoices in that which is with itself." [The Quran, 23:53]). Hence, however well we screen and shade our beliefs and principles to accommodate the viewpoints of others, it is improbable that all groups with divergent views would agree with us or even like our artificial shading. Therefore, the best way is to present before the world the beliefs, ordinances and teachings of our religion in their original and real shades of colour, and describe the evidence we possess in their favour in very clear terms, and then leave it to the intellect of the people to accept or reject them. If they accept, it is well and good and if they reject we should not be unduly concerned about it. This is the correct principle of propagation which has always been adopted by people of constancy and perseverance; even the Prophets of Allah (peace be upon them) have acted accordingly.

Since a long time I had been feeling the necessity of taking up this work; but apart from the feelings, I could not take any practical steps towards it because a lot of time and leisure is required for this work, and time is the only thing which is not freely available to a journalist.

However, in the last days of December 1926 an incident took place which forced me to take that practical step ignoring the difficulties. That incident was the murder of Swami Shardhanand, founder of the Shudhi movement, which gave the naive and short-sighted people a fresh opportunity to publicize false views against Islamic Jihad,

because, unfortunately, the person arrested for this act was a Muslim, and the newspapers attributed to him the views that he had killed the Swamy as he considered him to be an enemy of his religion and that he was hopeful to gain paradise by accomplishing this virtuous task. The real facts are known to Allah alone; this is how the incident was portrayed. Because of this incident a commotion was created amongst the enemies of Islam. In spite of the proclamations of the Islamic scholars and the combined writings and clarifications of Muslim leaders and Islamic magazines concerning the incident, the opponents of Islam, instead of keeping the issue within its natural boundaries, began to hold the entire Muslim community and the Islamic teachings responsible for the incident and openly laid accusations against the Holy Quran that its teachings make the Muslims bloodthirsty and murderers; its teachings are against security, peace and tranquillity; its teachings has rendered Muslims so biased that they consider killing of non-Muslims lawful, and by killing them they hope to gain entrance into the paradise. Some loudmouthed and vociferous people went so far as to suggest that as long the teachings of the Quran remain, peace cannot be established and, therefore, the entire humanity should try to eliminate these teachings. These views were published and publicized to such a large extent that even the right-thinking people got confounded, and a person like Gandhiji, who is the most right-thinking person amongst the Hindus, got so overwhelmed by this propaganda that he repeatedly expressed the view that:

*"Islam came into existence in such an environment that at that time its decisive power was the sword and it is the sword even today."*

All these views were not based on any investigation or scientific inquiry. The same old and stale lesson was being repeated like a parrot which had been taught by that "old treacherous opponent of the Truth," the Satan. The



aforesaid unprecedented incident gave a kind of factual hue to these imaginary views by which the uninformed people could have been easily deceived. Since these types of common misconceptions always act as an impediment in the way of propagation of Islam, and since it is essential, in such circumstances, to present the true teachings of Islam more clearly so that the dust is cleared and the facts are brought out in a more luminous manner, without waiting for the availability of time I started to write on the topic on hand in the little spare time that I used to get after the editing and compilation of the newspaper. Simultaneously, I also started to publish it serially in the columns of the newspaper, *Al-Jamee'at*. In the beginning the intention was to write a brief essay, but once the chain of thoughts began to form so many facets of the subject emerged that it became difficult to cover it in the columns of the newspaper. Therefore, after publishing 23-24 numbers, reluctantly, I stopped its publication; after completing the entire series, now I am presenting it in the form of a book.

Although this book comprehensively covers almost all the facets of the topic under discussion, I am very sorry to say that some of them had to be dealt with briefly because of paucity of time; those issues which were required to be discussed in an entire chapter have been dealt with in a sentence or two. In this book I have taken care not to give in to the personal thoughts and opinions of others or mine. Instead, all great and small issues presented in the book have been sourced from the Holy Quran, and wherever further explanations were necessitated, Traditions and Sayings of the Prophet, authentic books of Islamic jurisprudence and books of exegeses of the Holy Quran have been consulted so that everyone could see that nothing new has been created to match the trends and shades of the day, and whatever has been said is all based on the commandments and instructions of Allah, His Prophet and scholarly works of Islamic Imams, jurists and scholars.

## **PREFACE TO THE SECOND EDITION**

This book was out of print and unavailable for many years. First of all, it was very difficult to get such a huge book printed and published during the War. Secondly, I had put on hold its reprint because I wanted to add in this book a commentary on the changes that were taking place in the international laws due to the Second World War. But, in the mean time, unfortunately, my health got worsened and it became very difficult for me to read and write. Now this book is being published with just some essential improvements and modifications. If Allah the Almighty gives me the strength to work again, the aforesaid additions will be incorporated in one of the future editions.

**Abul A`la**  
12 Ramzan al-Mubarak 1366 AH  
(July 31, 1974)

## A NOTE FROM THE TRANSLATOR

At the very outset I thank Allah the Almighty for giving me the opportunity, strength and capability to translate such a great work of such a greater scholar. The subject of Jihad has again taken a centre-stage in recent times. Muslim Ummah (Community of Muslims), and Muslim countries are being targeted and portrayed as terrorists. Also Islam and its teachings are extensively being presented as barbaric and unsuitable for a "civilized" world. I believe that this is a very relevant book which is capable of answering the adverse criticism being made against Islam and its concept of Jihad. The English version would certainly satisfy the needs of both Muslims and non-Muslims, who cannot access the book which is in Urdu. I had approached the concerned authorities at the Headquarters of Jamat-e-Islami Hind, New Delhi, through Moulana Muhammad Iqbal Mulla Sahib, who approved the project of translation after going through the sample that I had submitted. I have been encouraged by Dr. Rafat, Dr. Raziul Islam Nadvi and Moulana Iqbal Mulla Sahib; I am deeply indebted to them all. I would also like to extend my deep sense of gratitude to all those who encouraged, helped and gave me valuable suggestions in taking this work to its logical conclusion.

Moulana Maududi was not only a great Islamic scholar but also a great literary figure and his works in Urdu are counted amongst the greatest literary works of our day. Translating such a great scholarly and literary work is a difficult task indeed. It took me nearly three years to complete the task. Moreover, as Moulana himself has reiterated, the book was in need of improvement and modification, which, unfortunately, he could not carry out himself. As per his wish, I have tried to briefly elaborate

some points which, in my view, needed elaboration and have provided additional information through footnotes and appendix. Moulana has quoted a great deal from books written in English on the subjects of International Law, Laws of War and teachings of other religions. He had translated such excerpts from English to Urdu. I have, in turn, not retranslated such excerpts but have quoted directly from the original books.

I have tried my utmost to maintain the style and flow of Moulana's writing. But I am not sure if I have been successful in my efforts, because Moulana was a literary giant, and his style, if not impossible, is certainly difficult to imitate.

I humbly pray Allah the Almighty to accept this effort and suitably reward me, my parents, particularly my father, D. Abdul Hakeem, whose teaching and guidance have made me capable of achieving a little excellence and mastery over Urdu and English languages.

**D. Abdul Karim**

Mysore, India

Rajab 1, 1436 A.H.

April 21, 2015

## **CHAPTER I**

# **REAL NATURE OF ISLAMIC JIHAD**

## **INVIOABILITY OF HUMAN LIFE**

The very first clause of the law on which the foundation of human civilization has been established is that the life and blood of a human being is inviolable. Among the civic rights of man the foremost right is the right to live, and among the civic duties the foremost duty is to let others live. All the canonical laws and civilized laws of the world compulsorily contain this ethical principle of inviolability of human life. Any law or religion which does not recognize this right can neither become the religion and law of civilized human beings, nor can any human community live peacefully under it, nor can it attain any prosperity. Everyone can very well understand that when there is no value and sanctity for human life, and there is no order and system to protect it, how can even a few persons live together, carry out any mutual trade and business, and have that peace and tranquillity and that peace of mind which are required to carry on trade, agriculture, establish industries, earn money, build dwellings, travel, and lead a civilized life. Apart from these requirements, if we look at it on purely humanitarian grounds, it is utterly barbaric to kill a fellow human being for personal gain or personal enmity; if anyone does so, leave alone reaching any ethical loftiness, it becomes impossible for him to even remain a human being.

All political statutes of the world promulgate the inviolability of life only by force and by creating fear of retribution. But the function of a true religion is to create a real reverence and appreciation for human life in the hearts and minds of people, so that where there is no fear of human criminal laws and where there is no police

surveillance, there too they are made to desist from unlawful killings of each other. From this point of view, it is very difficult to find in any other religion such true and effective teachings about the sanctity of human life as found in the Religion of Islam. In the Holy Quran, in various places and in different styles, this teaching has been tried to be ingrained on the hearts and minds of the people. In Chapter 5, *Maida*, after narrating the episode pertaining to the two sons of Adam where one had wrongly and cruelly murdered the other, Allah says:

مِنْ أَجْلِ ذَلِكَ كَتَبْنَا عَلَى بَنِي إِسْرَءِيلَ أَنَّهُ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ  
فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا  
النَّاسَ جَمِيعًا وَلَقَدْ جَاءَهُمْ رَسُولُنَا بِالْبَيِّنَاتِ ثُمَّ إِنَّ كَثِيرًا مِنْهُمْ بَعْدَ ذَلِكَ  
فِي الْأَرْضِ لَمُسرٍ قُونَ ﴿٣٢﴾

*"On that account: We ordained for the Children of Israel that if any one slew a person – unless it be for murder or for spreading mischief in the land – it would be as if he slew the whole people:*

*and if any one saved a life, it would be as if he saved the life of the whole people. Then although there came to them Our apostles with clear signs, yet, even after that, many of them continued to commit excesses in the land."*

(The Quran, 5:32)

In another place, while describing the virtuous attributes of His servants, Allah says:

لَا يَقْتُلُونَ النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَلَا يَزْنُونَ وَمَنْ يَفْعَلْ ذَلِكَ يَلْقَ  
أَكْرَامًا ﴿٦٨﴾

*They do not slay such life as Allah has made sacred except for just cause, nor commit fornication; – and any that does this shall meet its punishment."*

(The Quran, 25:68)

In another place, Allah says:

قُلْ تَعَالَوْا أَتْلُ مَا حَرَّمَ رَبِّيَ عَلَيْكُمْ أَلَّا تُشْرِكُوا بِهِ شَيْئًا وَبِالْوَالِدَيْنِ إِحْسَانًا وَلَا تَقْتُلُوا أَوْلَادَكُمْ مِنْ إِمْلَاقٍ نَحْنُ نَرْزُقُكُمْ وَإِيَّاهُمْ وَلَا تَقْرُبُوا الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطْنَ وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ ذَلِكُمْ وَصَّيْتُكُمْ بِهِ لَعَلَّكُمْ تَعْقِلُونَ ﴿١٥١﴾ (النعام: 151)

Say: "Come, I will rehearse what Allah has (really) prohibited you from: Join not anything as equal with Him; be good to your parents; kill not your children on a plea of want; We provide sustenance for you and for them; come not nigh to shameful deeds, whether open or secret; take not life, which Allah has made sacred, except by way of justice and law: thus does He command you, that you may learn wisdom."

(The Quran: 6:151)

The people who were initially addressed in this teaching were those who did not value human life much and, used to kill even their own offspring for personal gain. Therefore, the Prophet of Islam (peace be upon him) for reforming their natural disposition always used to advise and instruct them about the inviolability of human life, and these instructions were always delivered in a very effective manner. In the Traditions of the Prophet (*Ahadeeth*), many such Sayings are found wherein killing an innocent man has been described as the most heinous and the worst sin. Some of these Sayings are given below:

1. Hazrat Anas bin Malik narrates that the Prophet of Allah (peace be upon him) said: "The gravest of Al-Kaba'ir (the great sins) are (1) to join others as partners in worship with Allah, (2) to murder a human being, (3) to be undutiful to one's parents (4) and to make a false statement," or said, "to give a false witness." (*Bukhari*)
2. Hazrat Ibn 'Umar narrates that the Prophet of Allah (peace be upon him) said: "A faithful believer remains within the sphere of his religion as long as he does not kill somebody unlawfully." (*Bukhari*)

3. The Prophet of Allah (peace be upon him) said: "On the Day of Judgment, the first thing that will be taken account of will be the Salat (Prayer), and the first thing that will be adjudicated upon between the people will be that pertaining to claims of blood." (*Nasaee*)
4. It is narrated by Hazrat 'Abdullah that a man came to the Prophet of Allah (peace be upon him) and asked: "O Allah's Apostle! Which sin is the gravest in Allah's Sight?" The Prophet said: "To set up a rival unto Allah though He Alone created you." The man asked: "Which is the next gravest sin?" The Prophet said: "To kill your child lest he should share your food with you." The man asked: "Which is the next (gravest) sin?" The Prophet said: "To commit fornication with your neighbour's wife." (*Bukhari*)

### **ETHICAL EFFECTS OF ISLAMIC TEACHINGS ON THE WORLD**

These teachings regarding the inviolability of human life were not the result of contemplations of any philosopher or moral teacher whose effects could remain only in books and schools; rather, in truth, they were the teachings of Allah and His Prophet whose every word became part and parcel of every Muslim's Faith, and whose performance, propagation and implementation were binding on every person who believed in Islam. Hence, in less than a quarter of a century, because of these teachings such a sense of reverence for human life and love for peace was created in a bloodthirsty people like Arabs that, according to the forecast of Prophet Muhammad (peace be upon him), a woman used to travel alone from Qadsiya to San'a and no one used to attack her to take her life or steal her wealth, although this was the very same country where 25 years ago even the biggest of the caravans could not travel without fear for their safety. Afterwards, when more than half of the then civilized world came under the Islamic



rule and the effects of the Islamic ethics spread in the four corners of the world, along with many human fallacies and depravations, the Islamic teachings also eradicated the irreverence of human life which was widespread all over the world.

Today, the position that the inviolability of human life has acquired in the civilized statutes of the world is the result of one of the splendid results of the revolution brought about by the Islamic teachings in the ethical environment of the world. Otherwise, in truth, in the dark period in which these teachings were revealed, human life had no value at all. The world has read and heard about the bloodthirstiness and brutality of the then Arab world, but the situation was no better in the countries which considered themselves as centres of civilization, decency, knowledge and science. Stories pertaining to the Colosseum are still ripe in the annals of history where thousands of men got killed while demonstrating gladiatorial skills just to entertain the Roman aristocracy and public. Getting the slaves torn up by wild animals, or slaughtering them as animals, or burning them alive for the entertainment of the guests or just to please friends was not at all considered reprehensible and vicious in most of the countries of Europe and Asia. To kill the slaves and the prisoners by torturing them in different ways was a common practice of that age. Leave alone the ignorant and bloodthirsty aristocrats, in the considered opinions of the philosophers and scholars of Rome and Greece many methods of barbaric and brutal killing of innocent humans were permissible. Teachers of morality and ethics like Aristotle and Plato found nothing wrong in allowing a mother to remove a part of her body (i.e. her foetus) and hence abortion was not unlawful in Rome and Greece. A father had the full right to kill his offspring, and the Roman legislatures were proud of this particularity of Roman statute that under it the authority of a father over his

offspring was unlimited. According to the philosophers and the stoics, committing suicide was not a shameful act, but was considered such an honourable act that people used to organize gatherings and commit suicide publicly therein; even a philosopher of the calibre of Aristotle did not consider it a sin. A husband murdering his wife was considered to be just like slaughtering his domesticated animal, and there was no punishment for it in the Greek statute. The cradle of *Jeu Rakhsha* (Guardian of Life), India, was more advanced in this matter than these countries. Here it was a permissible act to set on fire the widow on the burning pyre of her dead husband, and it was religiously enjoined.<sup>1</sup> The life of a Shudra had no value and since the poor fellow was said to have born from the feet of Brahma, his blood was lawful to be shed by any Brahmin. Just listening to the reading of Vedas was such a sin for a Shudra that it was not only permissible but necessary to kill him by pouring boiling lead in his ears. The custom of *Jal Parva* was common, according to which the parents used to offer their first child to the river Ganga as sacrifice, and they considered this barbarism a good fortune.

At such a dark age, Islam proclaimed: لَا تَتْلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ ("Take not life, which Allah has made sacred, except by way of justice and law.") i.e. Allah the Almighty has made the human life inviolable; do not take it except when the justice demands it to be taken. There was a power and force in this proclamation, but a force which was, unlike the proclamation of *Ahimsa Paramo Dharma*,<sup>2</sup>

<sup>1</sup> People may say that these women were not forced to burn on the pyres of their husbands, but volunteered to do so. But, it is a fact that the pressure built up through different methods by the society on these unfortunate women was so huge and unbearable that it forced them to commit this horrible suicide.

<sup>2</sup> "*Ahimsa Paramo Dharma*" is a Sanskrit phrase that was popularized by Gandhiji and is often repeated by many leaders today to demonstrate the universality of Ahimsa. Loosely translated, *Ahimsa* means non-violence, *paramo* means topmost, ultimate, or supreme, and *dharma* means duty. Thus, the entire phrase means that non-violence is the topmost duty to the extent that

was not against the human nature and intellect, and therefore reached every corner of the world and apprized man of the true value of his life. Whether a nation or a country accepted Islam or not, its ethical life, to a certain extent, could not remain unaffected by this proclamation. Any just and impartial world historian cannot deny that the credit and glory of establishment of inviolability of human life in all the ethical statutes of the world as much as it goes to this proclamation does not go that much to the proclamation made in the "*Sermon on the Mount*" or "*Ahimsa Paramo Dharma*."

## LAWFUL KILLING

However, just ponder over the aforesaid verse. Allah has not just ordained *لَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ* ("*Take not life, which Allah has made sacred*"), but along with it has also ordained *إِلَّا بِالْعَقْلِ* ("*except by way of justice and law*"). In Verse 5:32, He just did not declare: *مَنْ قَتَلَ نَفْسًا فَكَأَنَّمَا قَتَلَ النَّاسَ* ("*If any one slew a person it would be as if he slew the whole people*") but qualified it with *بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ* ("*except by way of justice and law*"). It is not ordained that do not slew anyone in any circumstance. If it had been so ordained then it would have been a defect in the law; it would not have been just but, in fact, would have been cruel. The requirement of the world was not to set free man from the clutches of the law and give him full freedom to do mischief, spread unrest and turmoil, oppress and terrorize as much as he wants and still his life to remain inviolable. The real requirement was to establish peace in the world, annihilate the seeds of all persecution, anarchy

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it supersedes all other duties. For someone who holds this true, it means that there is no selective application of ahimsa ... it must be applied in every case and in all matters. This universal sense leads to an unconditional and unilateral abandonment of violent resistance, under any and all circumstances (as in the philosophy of Buddhists and Jains). (*Hindupedia*) [Translator]

and strife, and formulate such laws under which everyone would be free in his own personal limits and no one is allowed to create unrest in the material and spiritual peace of others by transgressing the predetermined limits. For this purpose, not only the backing of الله *حَرَّمَ* (لا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللهُ) ("Take not life, which Allah hath made sacred") was required but also the protective power of *إِلَّا بِالْحَقِّ* ("except by way of justice and law") was also required; otherwise in place of peace there would have been anarchy and chaos.

Any statute of the world which is bereft of act of reparation and retribution cannot succeed. Human nature is not as obedient as to comply whole-heartedly anything which is ordained and to give up the thing which is forbidden. If it were to be so, then there would not have been any sort of repression and unrest in the world. Man in his natural disposition is made up of virtue along with evil, and obedience along with defiance. Therefore, it is essential to have a statute that along with ordaining to do something would also specify the punishment for not doing it, and along with forbidding something would also detail the resultant penalty to be paid in case it was not desisted from. It cannot be enough to just proclaim: *وَلَا تُفْسِدُوا فِي الْأَرْضِ بَعْدَ إِصْلَاحِهَا*

(*"Do no mischief on the earth, after it has been set in order"*<sup>1</sup>), or *لا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللهُ* ("Take not life, which Allah has made sacred") unless it is also made clear about the punishment that would be meted out to the person who does not desist from this great sin and commits murders and killings, and spreads anarchy.

It is possible to have this kind of defect in man-made laws, but a Divine Law cannot have this kind of defects. Therefore, it has made it clear that the human life will be inviolable only as long as it has not been made violable by way of justice and law. A person can be given the right to

<sup>1</sup> The Quran: 7:56.

live only within the set lawful boundaries, and when he crosses these boundaries and spreads mischief and anarchy or unlawfully take the life of others, then automatically he loses the right to live, the inviolability of his life changes into violability, and moreover, his death gives life to humanity. Therefore, Allah declares: *الْفِتْنَةُ أَشَدُّ مِنَ الْقَتْلِ* ("Tumult and oppression are worse than slaughter"<sup>1</sup>). When a person commits this great evil then it is better to annihilate him to root out such an evil. Likewise, for a person who unlawfully takes the life of another person, it has been ordained: *كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ* ("The Law of Equality is prescribed to you in cases of murder"<sup>2</sup>). This Law of Equality also eradicated the discrimination practised in the misguided communities between the high and the low, and the strong and the weak. Hence, in the aforesaid Verse 2:178 Allah further declares: *الْحُرُّ بِالْحُرِّ وَالْعَبْدُ بِالْعَبْدِ وَالْأُنْثَى بِالْأُنْثَى* ("the free for the free, the slave for the slave, the woman for the woman"). It is further clarified in Verse 5:45: *وَكَتَبْنَا لَهُمْ فِيهَا أَنْ تُقَاتِلُوا أَنْفُسَ بِالنَّفْسِ* ("We ordained therein for them: "Life for life,")

It cannot be fair that if a rich person kills a poor man, or a free man kills a slave he is allowed to go scot-free; rather all are equal as human beings. A life shall be taken in lieu of another life whether that life belongs to a poor or a rich. To curb any hesitation in the performance of this essential bloodshed, it is proclaimed: *وَلَكُمْ فِي الْقِصَاصِ حَيَاةٌ يَا أُولِي الْأَلْبَابِ* ("In the Law of Equality there is (saving of) Life to you, o ye men of understanding."<sup>3</sup>). It is stressed in this Verse that the men of intellect should not consider the imposition of Law of Equality as imposition of death but, on the contrary, it restores life to the society by surgically

<sup>1</sup> The Quran: 2:191.

<sup>2</sup> The Quran: 2:178.

<sup>3</sup> The Quran: 2:179.

removing and throwing out a malignant and life-threatening tumor. The philosophy of life in the Law of Equality has been very well explained by Prophet Muhammad (peace be upon him). He said:

*"Help your brother whether he is an oppressor or he is the oppressed." People asked: "O Prophet of Allah, it is alright to help him if he is oppressed, but how should we help him if he is an oppressor?" The Prophet said: "By preventing him from oppressing others." (Bukhari, Book #43, Hadith #624: Narrated by Hazrat Anas bin Malik)*

In fact, the force and constraint that is used to restrain the oppressor from committing oppression is not at all coercion, but is essentially compassion and humaneness, and a sort of extending help to the oppressor himself. That is the reason Islam has instructed to promulgate all its criminal laws strictly, and has declared them to be the cause of mercy, blessing and prosperity. Prophet Muhammad (peace be upon him) has said:

*"Promulgation of a limit of Limits of Allah (criminal laws) is better than 40 nights of rain in the cities of Allah the Almighty."*

Blessing of the rain is that it irrigates the land and helps cultivate good crops which results in increase in prosperity. But the blessings of promulgating the Limits of Allah (criminal laws) are even more in that through it the roots of oppression, unrest, anarchy and persecution are uprooted, the creatures of Allah gets the opportunity to lead a peaceful life, and with the establishment of peace, that tranquillity is attained which is the lifeline of civilization and the very essence of progress and prosperity.

## **DIFFERENCE BETWEEN LAWFUL EXECUTION AND UNLAWFUL SLAYING**

By such a strict prohibition of unlawful slaying and a strong injunction of lawful execution, the Divine Law of Islam, between the two paths of excesses and deficiency, has shown us the straight and middle path of justice and

equity. On the one hand, there is the group which does not value much the human life and considers it right to sacrifice it at the altar of its carnal and sensual desires. On the other hand, there is the misinformed and misled group which believes in the permanent inviolability and sanctity of the human blood and does not consider lawful to shed it under any circumstances whatsoever. Islamic Law has refuted both these thoughts, and has taught that the inviolability of human life is neither as sacred as the sanctity of Ka'ba or the blood relations that it cannot be made violable at any circumstance, nor its value is as low that it is right to slay it to satiate man's sensual desires. On the one hand, it has instructed that the human life is not a plaything to be used for entertainment by slaughtering it like an animal and enjoying the spectacle of its writhing and wriggling, nor is it meant for enjoying its torturing and burning, nor is it meant to be killed when seen as an impediment in the fulfilment of personal desires, nor is it meant to be sacrificed at the altar of unfounded superstitions and wrongful customs and traditions; to shed human blood for all these evil purposes is, in fact, unlawful and a great sin. On the other hand, it has also instructed that there is a thing which is more valuable than human life and that is "the Truth," and when it demands, shedding of blood is not only lawful but is obligated, and not shedding it becomes the gravest sin. As long as man respects the Truth, his blood remains inviolable, but once he becomes unruly and tries to transgress and encroach upon "the Truth," he loses the value of his blood and its worth will be less than that of water.

### **INDISPENSIBLE BLOODSHED**

In the lawful execution although human blood is also shed as in the unlawful slaying, it is an indispensable and essential bloodshed which cannot be refrained from at any circumstance. Without it neither peace can be established in

the world, nor evil and anarchy can be uprooted, nor the virtuous and the good can be protected from the mischief of the evil-mongers, nor the people can acquire their rights, nor the faithful can have the freedom of faith and conscience, nor the unruly can be confined within their rightful limits, and nor the servants of Allah can have the worldly and spiritual peace and tranquillity. If Islam is accused of allowing this kind of bloodshed, then it does not have any qualms in accepting and admitting this accusation. But the question arises who else is there whose cloak is not stained red with the spatters of this indispensable bloodshed? The ahimsa of Buddhism declared it unlawful, but it too was forced to recognize the difference between *Bhikshu* (religious monks living on alms) and the *Girihastha* (worldly affairs), and ultimately, after giving a choice and chance to a small group of people to reach *Nirvana*,<sup>1</sup> it allowed the rest of its followers, after giving them a few moral teachings, to follow *Girihastha* which covers every worldly affair including politics, criminal laws, wars, etc. Christianity in spite of declaring war as unlawful was forced to go to war when it became intolerable for it to bear the atrocities of the Roman Empire, and ultimately after capturing the Roman Empire it waged such wars against its opponents which far transgressed the limits of indispensable bloodshed. Although the modern philosophy of Hinduism advocates the belief in *Ahimsa Paramo Dharma* and declares slaying of a living being a grave sin, when the famous Hindu jurist, Manu, was asked: "What should we do if a person molests our women, or robs our wealth, or dishonours our religion?" he gave the ruling: "Such an unruly person should be killed even if he is a guru or a Brahmin scholar, young or old."

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<sup>1</sup> *Nirvana* means: Eternal bliss/emancipation from matter and from the necessity for further transmigration, and reunion with the supreme spirit. [Translator]



Here, it is not the time or occasion to prove the necessity of indispensable bloodshed by comparing different religions. Comparative study of religions is a different topic which will be dealt with at its proper place when it will be proved that those religions who regarded war as evil were unable to refrain from this indispensable bloodshed when they stepped into the practical world. At present, our aim is to show that for the sake of ostensible ethics, a group or party might scale any height of imaginary and fanciful philosophy, but when once it climbs down into the practical world, it has to solve all worldly problems by adopting practical methods alone and the world itself forces it to confront its realities with a practical approach.

It would not have been very difficult for the Revealer of the Quran (Allah) to present that kind of fanciful and charming principles of inviolability of human life as are found in the beliefs of Ahimsa, and in fact, it could have done even better and wonder-struck the intellects of the world by His miraculous command over language and composition. But the aim of the Creator of the Universe was not to show-off His force of speech and philosophy; it was to present before His servants a correct and very clear modus operandi which, when complied with, renders their life safe and sound both in this world and the Hereafter. Therefore, when the human nature demanded that without the exception of *إلا بالحق* "*except by way of justice and law,*" the general ordinance of *لَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ* "*Take not life, which Allah has made sacred*" would not be effective, it was beyond His Faultless and Unblemished Wisdom to teach its servants to loudly pronounce *Ahimsa Paramo Dharma* and at the same time draw their swords and indulge in bloodshed, when He Himself has chided his servants with *لِمَ تَقُولُونَ مَا لَا تَفْعَلُونَ* ("*Why you say that you do*

*not do*"<sup>1</sup>). Hence, the Perfect Wisdom of Allah prescribed the Law of Equality along with the teaching of inviolability of human life, and made the use of this indispensable bloodshed mandatory, which is necessary to protect the inviolability of human life.

### COLLECTIVE MISCHIEF

The Law of Equality applies to communities also as it is applied to the individuals. As individual become mischievous and unruly so also groups of people and communities. As the individuals, overcome by avarice and temptation, transgress their limits, the communities and groups of people also transgress their limits. Therefore, as the bloodshed becomes essential to control individuals and restrain them from committing oppression and transgression, so also war becomes essential to restrain the communities and group from their far greater mischievous, oppressive and evil activities. Basically, there is no difference between individual mischief and collective mischief, but the consequences of collective mischief are far greater than the individual mischief. The consequences of individual mischief are limited to a narrow sphere and only a small number of people are afflicted by it; it can be eliminated by bloodying a few square feet of the earth. But the mischief of the communities/groups causes unlimited calamity and misery, and forces uncountable human beings to lead a wretched life; life of entire nations is straitened and hard-pressed, and the civic order of the society is rendered chaotic. This kind of collective mischief cannot be eliminated without shedding streams of blood, which the Holy Quran (8:67) has very aptly described as "انخان في الارض"<sup>2</sup> (thoroughly subduing the land).

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<sup>1</sup> The Quran, 61:2.

<sup>2</sup> "It is not fitting for a Prophet that he should have prisoners of war until He has thoroughly subdued the land." (The Quran, 8:67)

When communities become unruly and oppressive, they do not confine themselves to any single act of mischief or oppression. Since various devilish characters make up such unruly communities, numerous are the evil forces that they bring in their wake, and thousands are the diabolic acts of mischief that they generate. Some of them who are obsessed with selfish desires and avaricious of wealth and riches, commit robbery on weaker nations to rob their wealth, capture their trade and commerce, destroy their industries, loot their hard-earned money through all sorts of trickery and with the help of their superior military power fill their own treasuries with the wealth which rightfully belongs to the starving and oppressed people. Some of them being creatures of lust and carnal desires become gods of fellow human beings and sacrifice the rights of the weak on the altar of their lust. They raise the standard of oppression in place of justice and fair play, suppress the noble and virtuous and elevate the ignorant and the mean. Under their evil and defiled influence, the morality of the communities and nations gets ruined; the fountains of virtues, probity and decency get dried up and in their place filthy gutters of dishonesty, perfidy, immorality, immodesty, cruelty and other kinds of immoral pernicious things begin to flow.

There are some among them who, possessed by the obsession of conquering the world, attack and deprive the weaker nations and communities of their freedom, shed the blood of the innocent, cause widespread anarchy and chaos just to fulfil their desire to acquire more power, and put the collars of servitude on the necks of free men which is the root cause of all things unethical and pernicious. The misery of the people gets compounded many folds when religious coercion also joins hand with these diabolic and evil activities, and when any one of these tyrannical groups misusing the religion for their evil objectives, deprives the people of their religious freedom and oppresses and

tyrannizes others just because they follow some other religion than its own religion.

### **WAR: A MORAL AND ETHICAL DUTY**

In these circumstances, war becomes not only lawful but becomes an obligatory duty. The greatest service to humanity in these circumstances is to paint the earth red with the blood of these tyrants, and deliver the oppressed and helpless people from the evils of those mischief and evil mongers, who after becoming followers of the Devil, put the children of Adam through untold misery of moral, spiritual and material devastation. These people are not humans to have the right to be treated compassionately as human beings; they are the devils in the garb of humans and are the real enemies of humanity. Their complete annihilation from the face of the earth is the only compassion that can be shown to them; they and their companions, who help each other in their evil activities, lose their right to live because of their unruly activities. They are actually like that part of the human body which has become poisonous with pernicious matter retention of which could be fatal to the whole body. Hence, expediency always demands that such a poisonous and pernicious part should be surgically removed and thrown out. It is quite possible that there could be in the world a visionary guide or student of ethics who might consider killing such tyrants a sin and whose cowardly soul might cringe at the very thought of the streams of blood that is shed to get rid of their evil. But such a guide cannot reform the world. He can retire to forests and hills/mountains and by exercising acts of piety, abstinence and mysticism could cleanse and comfort his soul, but his teachings cannot be successful in getting rid of the evil and safeguarding the world from tyranny and oppression. He can surely train and produce a group of self-denying and abstinent people who can join the oppressed in enduring the oppression, but it is beyond

his capabilities to produce a group of highly courageous and ambitious people who can establish justice and fair play after wiping out oppression, and provide necessary resources for the human beings to lead a peaceful life and reach humanity's highest goal.

Practical morality and ethics, whose aim is to establish a true and viable system of civilization, as a matter of fact, is another kind of philosophy where it is futile to search for visionary flavours. As the purpose of medical science is not to satiate the taste buds but to cure the human body by a medicine either sweet or bitter, similarly the purpose of practical ethics and morality is not to provide literary, artistic, or visionary taste and relish but is reformation of the world, either by force or by gentler means. Between the sword and the pen, a true ethical reformer cannot swear to use only one of them to accomplish the task of reformation; he is equally in need of both the instruments. As long as propagation, persuasion and exhortation can be effective in making these unruly groups respect and adhere to the limits of humanity and ethics, use of force against them is not only impermissible but is forbidden. But when the wickedness and maliciousness of a group passes such limits that it cannot be brought back to the straight path by mere exhortations, when there is no other way to stop it from violating and usurping the rights of others, from attacking and abusing the honour and dignity of others, and from ravaging the ethical, spiritual and material life of others except by war, then it becomes the foremost duty of every well-wisher and sympathizer of humanity to take up arms against it and not to rest till the lost rights of the humanity are not restored back to it.

### **APPROPRIATENESS OF WAR**

This appropriateness and necessity of war has been described by Allah, the Wise and the Omniscient, thus:

وَلَوْلَا دَفْعُ اللَّهِ النَّاسَ بَعْضَهُمْ بِبَعْضٍ لَّهُدِمَتْ صَوَامِعُ وَبِيَعٌ وَصَلَوَاتٌ  
وَمَسْجِدُ يُذَكِّرُ فِيهَا اسْمُ اللَّهِ كَثِيرًا (الحج: 40)

*"Had not Allah check one set of people by means of another, there would surely have been pulled down monasteries, churches, synagogues, and mosques, in which the name of Allah is commemorated in abundant measure."*

(The Quran: 22:40)

In this exalted Verse only the mosques of the Muslims have not been mentioned, but three more places of worship have also been mentioned – i.e. صَوَامِعُ (Swame`); بِيَعٌ (Bay`); and صَلَوَاتٌ (Salawat). صَوَامِعُ (Swame`) means the Christian monasteries, temples of Zoroastrians and places of worship of Sabeans. The word Bay` includes both Christian churches and synagogues of Jews. After using these comprehensive words, another wide-ranging word *Salawat* has been used which can be applied on every kind of Allah's worship, and only in the very last mosques have been mentioned. By this, the intention is to point out that if Allah did not check and annihilate the tyrants and oppressors through just and upright people, even the places of worship, which do not pose any sort of threat or injury to anyone, would not have been spared from destruction. Besides, it is also pointed out that the worse kind of mischief is a community destroying the places of worship of another community because of enmity. Further, Allah has very eloquently manifested His intention that when a group spreads tyranny and oppression, He considers it essential to annihilate it through another group.

This appropriateness of war has been described in another place in the Holy Quran, while narrating the tyranny of Goliath and his killing by David (peace be upon him), as follows:

فَضِّلْ عَلَى الْعُلَمَاءِ ﴿٢٥١﴾ (البقرة: 251)

*(The Quran, 2:251)*

كُلَّمَا أَوْقَدُوا نَارًا لِلْحَرْبِ أَطْفَأَهَا اللَّهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا وَاللَّهُ لَا

يُحِبُّ الْمُفْسِدِينَ ﴿٦٣﴾ (المائدة: 64)

*(The Quran, 5:64)*

أُذِنَ لِلَّذِينَ يُقَاتِلُونَ بِأَنفُسِهِمْ طَلَبُوا ۖ وَإِنَّ اللَّهَ عَلَىٰ نَصْرِهِمْ لَقَدِيرٌ ﴿٢٠﴾

أُخْرِجُوا مِنْ دِيَارِهِمْ بِغَيْرِ حَقٍّ إِلَّا أَنْ يَقُولُوا رَبُّنَا اللَّهُ (٣٩-٤٠)

*(The Quran, 22:39-40)*

This is the first Verse of the Holy Quran which was revealed concerning war. In this Verse, the crime of those against whom waging of war is permitted, is not that they possess fertile lands, or own large trading houses, or they follow a different religion; rather their crime is that they

tyrannize people, unlawfully displace people from their dwellings, and they are so biased that they put people to untold misery and suffering just for declaring that Allah is their Lord. It is not that such oppressed people have been ordered to wage war only in their defence, but have been strongly enjoined to help and assist other oppressed and helpless people too and free them from the clutches of the oppressors. The Holy Quran enjoins:

وَمَا لَكُمْ لَا تُقَاتِلُونَ فِي سَبِيلِ اللَّهِ وَالْمُسْتَضْعَفِينَ مِنَ الرِّجَالِ وَالنِّسَاءِ وَالْوِلْدَانِ الَّذِينَ يَقُولُونَ رَبَّنَا أَخْرِجْنَا مِنْ هَذِهِ الْقَرْيَةِ الظَّالِمِ أَهْلُهَا وَاجْعَلْ لَنَا مِنْ لَدُنْكَ وَلِيًّا وَاجْعَلْ لَنَا مِنْ لَدُنْكَ نَصِيرًا ﴿٧٥﴾  
(النساء: 75)

*"And why should you not fight in the cause of Allah and of those who, being weak, are ill-treated (and oppressed)? Men, women, and children, whose cry is: 'Our Lord! Rescue us from this town whose people are oppressors; and raise for us from Thee one who will protect; and raise for us from Thee one who will help.'"* (The Quran, 4:75)

This kind of war which is waged against the tyrants and the oppressors to defend themselves and help the helpless and the oppressed people has been declared by Allah as the war in His Cause. It has also been made clear that this war is not to be waged in the cause of people but in the Cause of Allah; it should not be waged to please the people but it should be waged to please Allah alone. It has been further ordered to continue prosecuting this war till the oppression and persecution of innocent people for selfish gains and interests have not altogether stopped. Hence, Allah declares: وَقَاتِلُوهُمْ حَتَّى لَا تَكُونَ فِتْنَةٌ (And fight them on until there is no more persecution,<sup>1</sup>) وَحَتَّى تَضَعَ الْحَرْبُ أَوْزَارَهَا ("until the war lays down its burden"<sup>2</sup>) that is, war is to be continuously waged until persecution and mischief

<sup>1</sup> The Quran, 2:193.

<sup>2</sup> The Quran, 47:4.



are not completely annihilated and there remains no necessity to wage war any more. Along with this, it has also been pointed out how dreadful would be the consequences of desisting or hesitating from waging this kind of just war because of the fear of resultant bloodshed and loss of wealth, property and human life.

### **DRAWING A LINE BETWEEN TRUTH AND UNTRUTH**

Allah has not just enjoined the necessity and expediency of waging war for truth and justice, but has also further clarified that:

الَّذِينَ آمَنُوا يُقَاتِلُونَ فِي سَبِيلِ اللَّهِ وَالَّذِينَ كَفَرُوا يُقَاتِلُونَ فِي سَبِيلِ  
الطَّاغُوتِ فَقَاتِلُوا أَوْلِيَاءَ الشَّيْطَانِ إِنَّ كَيْدَ الشَّيْطَانِ كَانَ ضَعِيفًا (الأنعام: 76)

*"Those who believe fight in the cause of Allah, and those who reject Faith fight in the cause of Evil (Taghut): so you fight against the friends of Satan; feeble indeed is the cunning of Satan."* (The Quran, 4:76)

This is a decisive pronouncement by which an absolute line has been drawn between the truth and the untruth. Those who fight to cause oppression and tyranny are the friends of the Devil and those who fight to eradicate oppression are the fighters in the Cause of Allah. Every war whose objective is to cause hardship and sufferings to the people without any justification, to displace the rightful owners from their lawfully held properties and dwellings and usurp their rights, and to torment and persecute those who believe in Allah, is a war waged in the cause of Evil (Taghut); it has nothing to do with the Cause of Allah. Waging such kind of a war is not the work of those who believe in Allah. However, those who help and defend the oppressed and the persecuted against such oppressors; those who want to eradicate oppression and tyranny and establish justice and fair play; and those who, by uprooting the oppressors and unruly elements, want to provide opportunities to the servants of Allah to lead a peaceful life

and to achieve lofty goals of life, are the ones whose war is considered a war in the Cause of Allah.

## EMINENCE OF WAR (JIHAD) IN THE CAUSE OF ALLAH

This is the very war (Jihad) whose eminence and loftiness has been mentioned in the Holy Quran pages after pages; its importance is stressed thus:

يَا أَيُّهَا الَّذِينَ آمَنُوا هَلْ أَدُلُّكُمْ عَلَى تِجَارَةٍ تُنْجِيكُمْ مِنْ عَذَابٍ أَلِيمٍ ۝ تُولِمُونَ  
بِاللَّهِ وَرَسُولِهِ وَتُجَاهِدُونَ فِي سَبِيلِ اللَّهِ بِأَمْوَالِكُمْ وَأَنْفُسِكُمْ ذَلِكُمْ خَيْرٌ  
لَكُمْ إِنْ كُنْتُمْ تَعْلَمُونَ ﴿١١﴾

*"O you who believe! Shall I lead you to a bargain that will save you from a grievous Chastisement? That you believe in Allah and His Messenger, and that you strive (your utmost) in the Cause of Allah, with your wealth and your person: That will be best for you if you but know!"*

*(The Quran, 61:10-11)*

Further, the Holy Quran praises the fighters in the Cause of Allah thus:

إِنَّ اللَّهَ يُحِبُّ الَّذِينَ يُقَاتِلُونَ فِي سَبِيلِهِ صَفًّا كَأَنَّهُمْ بُنْيَانٌ مَرْصُورٌ ۝

*(صف: 4)*

*"Truly Allah loves those who fight in His Cause in battle array, as if they are a solid cemented structure."*

*(The Quran, 61:4)*

And again the Holy Quran so eloquently testifies to the greatness and eminence of fighting in the Cause of Allah thus:

أَجَعَلْتُمْ سِقَايَةَ الْحَاجِّ وَعِمَارَةَ الْمَسْجِدِ الْحَرَامِ كَمَنْ آمَنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ  
وَجَاهَدَ فِي سَبِيلِ اللَّهِ لَا يَسْتَوُونَ عِنْدَ اللَّهِ وَاللَّهُ لَا يَهْدِي الْقَوْمَ الظَّالِمِينَ ۝  
الَّذِينَ آمَنُوا وَهَاجَرُوا وَجَاهَدُوا فِي سَبِيلِ اللَّهِ بِأَمْوَالِهِمْ وَأَنْفُسِهِمْ أَكْظَمُ  
دَرَجَةً عِنْدَ اللَّهِ وَأُولَئِكَ هُمُ الْفَائِزُونَ ۝

*(الحج: 19-20)*

*"Do you consider giving of drink to pilgrims, or the maintenance of the Sacred Mosque, equal to (the pious service of) those who believe in Allah and the Last Day, and strive with might and main in the Cause of Allah? They are not equal in the sight of Allah: and Allah guides not those who do wrong. Those who believe, and emigrate and strive with might and main, in Allah's Cause, with their goods and persons, have the highest rank in the sight of Allah: they are the people who are successful."* (The Quran, 9:19-20)

And then again this is the only righteous war where to keep vigil for one night is better than to keep awake and offer prayers in 1000 nights; where to stand firm in the battle field has been declared to be better than sitting at home and offering prayers for 60 years; and where keeping one's eyes opened and awake renders them safe from hell-fire. Moreover, it has been promised that the feet getting soiled in the paths of war would never be dragged in the hell-fire.

Along with these glad-tidings, people, who squirm and fidget when they hear the call to this righteous war and prefer to sit at home, have been warned in the most furious manner:

قُلْ إِنْ كَانَ آبَاؤُكُمْ وَأَبْنَاؤُكُمْ وَإِخْوَانُكُمْ وَأَزْوَاجُكُمْ وَعَشِيرَتُكُمْ وَأَمْوَالٌ  
اقتَرَفْتُمُوهَا وَتِجَارَةٌ تَخْشَوْنَ كَسَادَهَا وَمَسْكِنٌ تَرْضَوْنَهَا أَحَبَّ إِلَيْكُمْ مِنْ  
اللَّهِ وَرَسُولِهِ وَجِهَادٍ فِي سَبِيلِهِ فَتَرَبَّصُوا حَتَّى يَأْتِيَ اللَّهُ بِأَمْرٍ ۚ وَاللَّهُ لَا يَهْدِي  
الْقَوْمَ الْفَاسِقِينَ ﴿٢٤﴾

(الاحزاب: 24)

*"Say: If it be that your fathers, your sons, your brothers, your mates, or your kindred; the wealth that you have gained; the commerce in which you fear a decline; or the dwellings in which you delight are dearer to you than Allah or His Messenger, or the striving in His Cause, then wait until Allah brings about His Decision: and Allah guides not the rebellious."* (The Quran, 9:24)

## REASON FOR THE EMINENCE OF JIHAD

Just ponder why so much eminence has been given to Jihad in Allah's Cause and why it has been praised so much? Why is it being mentioned again and again that those who take part in Jihad alone are successful and their rank is set at such a loftier level, and why those who sit at home eluding it have been so severely warned? To solve these questions, just read carefully once again the Verses where Jihad has been ordained and its loftiness has been mentioned and the evilness of running away from it has been described. In these Verses, acquisition of wealth, territories and dominions have nowhere been mentioned as marks of success and loftiness. As Shri Krishna said to Arjuna that if he succeeded in the war (of Mahabharat) he "will enjoy the Earth,"<sup>1</sup> nowhere the Holy Quran has induced its followers towards Jihad by saying that in return you will be granted wealth and dominion of the world. On the contrary, everywhere only prospects of acquiring the pleasure of Allah, getting a good ranking from Him, and escape from the agonizing punishment have been mentioned.

Let us look again at the Verses mentioned above. In Verses 19 and 20 of Chapter 9, to "emigrate and strive with might and main, in Allah's Cause" has been described as better than "giving of drink to pilgrims, or the maintenance of the Sacred Mosque"; upkeep and custody of the Sacred Mosque at Mecca was a great source of large income and prestige. In return for this work there is no mention of any other rewards than "the highest rank in the sight of Allah." In Verses 10 and 11 of Chapter 61, tricks of trade are sought to be taught which might give raise to the misgiving that perhaps here there might be some mention of wealth and riches. But read it carefully, the reality of this trade is

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<sup>1</sup> "Either being slain you will attain the heavenly worlds or by gaining victory you will enjoy the Earth; therefore O Arjuna, confident of success rise up and fight." (Bhagavad Gita, 2:37) [Translator]

revealed to be “that you strive (your utmost) in the Cause of Allah, with your wealth and your person” and in exchange you save yourself “from a grievous Chastisement.” In Verse 24 of Chapter 9, those who evade war have been chastised that they are beset with undue love of their wives and children, and are found to fear destruction of their wealth and commerce, and wresting away of their favourite dwellings, although those who conquer countries by waging war not only acquire lots of money and wealth, but their commerce also flourishes, and they get many magnificent dwellings wrested from the conquered people to live in.

When the purpose of this Jihad is not territorial conquest, then what is it that Allah gets out of this bloodshed that he promises to grant such great ranks in exchange for it? What is so important about this work that even the feet that get soiled in its endeavour are made focus of such favour and benevolence, and what kind of success is concealed for the combatants of this dry and unsavory war that they are again and again being given glad-tidings of *أُولَئِكَ هُمُ الْفَائِزُونَ* (“they are the people who are successful.”)? The answer to these lies in *وَلَوْلَا دَفْعُ اللَّهِ النَّاسَ* (“And had not Allah check one set of people by means of another, the earth would indeed be full of mischief”) and *إِلَّا تَفْعَلُوهُ تَكُنْ فِتْنَةٌ فِي الْأَرْضِ وَفَسَادٌ كَبِيرٌ* (“Unless you do this (protect each other), there would be tumult and oppression on earth, and great mischief”). Allah does not want tumult, oppression and mischief to spread on His earth. He does not like that His innocent servants are tormented and destroyed. He abhors the powerful swallowing the weak, their peaceful life being attacked, and their moral, spiritual and material life being destroyed. He does not like the wickedness, evil deeds, oppression, injustice, massacre and pillage to remain rooted in the world. He does not like His favourite servants being made

servants of His other creatures and thus blemish the nobility of humanity with the stigma of ignominy. Who else deserves to get the love, mercy and pleasure of Allah and for whom the doors of success will open to embrace than the people who rise to eradicate oppression and establish justice in its place just for the sake of Allah, without the desire of any worldly compensation, without any greed for wealth and riches, without ever desiring any personal gains, and in this virtuous and loftiest activity sacrifice their lives and wealth, their commercial gains, the love of their family members – fathers, brothers and others – and comforts of their homes?

This very pre-eminence and loftiness of Jihad in Allah's Cause is the reason that amongst all the virtuous deeds, after Faith in Allah, it has been given the highest ranking; and if we ponder we will come to know that this Jihad, in fact, is the very soul and spirit of all virtues and ethics and morality. This human spirit, that man should never tolerate evil and be ready to sacrifice everything to eradicate it, is the highest spirit of human nobility; the secret for success of the practical life is also concealed in this spirit. The ethical and moral weakness of a person, who tolerates and ignores evil when perpetrated on others, will ultimately forces him to tolerate the evil when perpetrated on him too, and when this element of toleration takes root, then that stage of ignominy sets on him which Allah has declared as His wrath: *وَضُرِبَتْ عَلَيْهِمُ الذِّلَّةُ وَالْمُنْكَنَةُ وَبَاءُوا بِقَضَبٍ مِنَ اللَّهِ* ("They were covered with humiliation and misery; they drew on themselves the wrath of Allah." <sup>1</sup>). After reaching this stage, man loses every sense of humanity and nobility and readily accepts not only physical and material servitude but also mental and spiritual servility and falls into such a pit of ignominy that it becomes impossible for him to come out of it.

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<sup>1</sup> The Quran, 2:61.

On the contrary, the person who has the moral courage to declare everything which is evil to be bad, and strives untiringly to deliver the mankind from its clutches is the truthful and the righteous man of highest calibre, and his existence is a blessing to the mankind. Although such a person usually is not desirous of any reward from the world, the world, in spite of bearing the ugly marks of its shortcomings and ingratitude on its forehead, is not so ungrateful as not to recognize and accept such a servant of humanity as its leader, guide and chief who, without any rancour and uninterested of any returns and remunerations, sacrifices everything, to deliver it from the clutches of evil and give it ethical, spiritual and material freedom. From this, the purport of that Verse is very well understood where it is said: *الْأَرْضِ يَرِثُهَا عِبَادِيَ الصَّالِحُونَ* ("My servants, the righteous, shall inherit the earth."<sup>1</sup>). It is also understood from this that the success mentioned in *أُولَئِكَ هُمُ الْفَائِزُونَ* ("they are the people who are successful") means not just success in the Hereafter, but it also means that the real success in this world too is for these people alone who, rising above self interests, partake in Jihad just to please Allah and only for the welfare of the people.

## STATUS OF JIHAD IN THE STRUCTURE OF CIVILIZATION

When we have understood the real nature of Jihad, it is very easy to understand its status in the life of nations and people, and how much this is essential and indispensable to keep the system and setup of civilization in order. When there is a power in the world which continuously and successively undertakes activities of Jihad against evil and confines the unruly elements in their respective boundaries, then that imbalance in the structure of civilization would not be seen where today the entire mankind is divided

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<sup>1</sup> The Quran, 21:105.

between the oppressed and the oppressors, masters and slaves, and where, all over the world, the spiritual and ethical life is being destroyed, in some places by slavery and oppression and in some other places by violence, cruelty and enslaving the free. Eradicating evil from others, no doubt, is a great work. Even if a community or nation has the sense of eradicating evil from itself and does not give preference over this sense to its comforts, its wealth and opulence, its sensual pleasure, its life and for that matter every other thing than this work, it cannot be disgraced and debased and no power on earth dare to obliterate its honour. Submission to the truth and preferring death against submission to the untruth should be the distinctive characteristic of a noble community; if it does not have the power to promote and support the truth, at least it should remain firm and steadfast in safeguarding the truth, which is the least rank of nobility. However, falling below this rank, if a community cannot even safeguard the truth and its lack of sacrificial spirit dips to such a level that when the evil attacks it, instead of annihilating it or get annihilated, it accedes to live under it, then for such a nation and community there is no honour in this world, and its life, actually, is worse than death. To explain this riddle, Allah, in his Sagacious Book, has again and again made a mention of those communities and people who, fearing loss of sensual pleasures, life and wealth in undertaking Jihad against the evil forces, meekly surrendered to the dominance of the evil forces over them and borne the ignoble marks of misfortune and perfidy forever.

Allah calls these nations and people tyrants, because they tyrannized themselves with their misdeeds, and in fact got destroyed by their own tyranny and wrongdoings; examples of some such communities are given in the Holy Quran as under:



لَمْ يَأْتِهِمْ نَبَأُ الَّذِينَ مِنْ قَبْلِهِمْ قَوْمِ نُوحٍ وَعَادٍ وَثَمُودَ وَقَوْمِ إِبْرَاهِيمَ  
وَأَصْحَابِ مَدْيَنَ وَالْمُؤْتَفِكِينَ أَتَتْهُمْ رُسُلُهُمْ بِالْبَيِّنَاتِ فَمَا كَانَ اللَّهُ لِيَظْلِمَهُمْ  
وَلَكِنْ كَانُوا أَنْفُسَهُمْ يَظْلِمُونَ ④ وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ  
بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ وَيُقِيمُونَ الصَّلَاةَ وَيُؤْتُونَ  
الزَّكَاةَ وَيُطِيعُونَ اللَّهَ وَرَسُولَهُ أُولَئِكَ سَيَرْحَمُهُمُ اللَّهُ إِنَّ اللَّهَ عَزِيزٌ  
حَكِيمٌ ⑤

(النجم: 70-71)

*"Has not the story reached them of those before them? The people of Noah, and 'Ad, and Thamud; the people of Abraham, the men of Midian, and the Cities overthrown. To them came their messengers with Clear Signs. It is not Allah Who wrongs them, but they wrong their own souls. The Believers, men and women, are protectors, one of another: they enjoin what is just, and forbid what is evil, they observe regular prayers, pay Zakat and obey Allah and His Messenger. On them will Allah pour His Mercy: for Allah is Exalted in power, Wise." (The Quran, 9:70-71)*

Here, immediately after describing the wrong the previous nations and people did to themselves, the mention of the attributes of the Believers that they are protectors of one another and they enjoin what is just and forbid what is evil is to clearly show that these obliterated nations and people had given up the mission of enjoining what is just and forbidding what is evil, and this was the very act of tyranny which eventually destroyed them.

In another place, the result of cowardice and eluding Jihad by the Children of Israel has been described which is an eye-opener. Allah says that Prophet Moses (peace be upon him) exhorted his people to enter the holy land which Allah has assigned unto you, and turn not back ignominiously. But the Children of Israel were so terrified that they said:

يُمُوسَى إِنَّ فِيهَا قَوْمًا جَبَّارِينَ وَإِنَّا لَنَ نُدْخِلُهَا حَتَّى يَخْرُجُوا مِنْهَا فَإِن يَخْرُجُوا مِنْهَا فَإِنَّا دَاخِلُونَ ﴿٢٢﴾  
(المائدة: 22)

“O Moses! In this land are a people of exceeding strength: never shall we enter it until they leave it; if (once) they leave then shall we enter’.”

(The Quran, 5:22)

However, among their God-fearing men, two brave men advised that ‘Assault them at the (proper) Gate; when once you are in, victory will be yours; but on Allah put your trust you have faith’.” But the cowardly and the ignominious people, who were ever willing to live with the ignominy, remained rooted trembling with fear, and plainly told Moses (peace be upon him):

يُمُوسَى إِنَّا لَنَ نُدْخِلُهَا أَبَدًا مَا دَامُوا فِيهَا فَادْهَبْ أَنتَ وَرَبُّكَ فَقَاتِلَا إِنَّا هَاهُنَا قَاعِدُونَ ﴿٢٤﴾  
(المائدة: 24)

“O Moses! We shall never enter it as long as they are in it. Go thou and thy Lord, and fight you two, while we sit here’.”

(The Quran, 5:24)

And eventually, because of this cowardice, Allah passed the judgment that they shall wander for 40 years as vagrants and they shall not have any abode anywhere:

قَالَ فَإِنَّهَا مُحَرَّمَةٌ عَلَيْهِمْ أَرْبَعِينَ سَنَةً يَتِيَهُونَ فِي الْأَرْضِ  
(المائدة: 26)

“Allah said: ‘Therefore, will the land be out of their reach for forty years; in distraction will they wander through the land.’”

(The Quran, 5:26)

In yet another place, the Children of Israel’s love for self and wealth, and their cowardice and fear of death has been described in great detail, which was the reason for their quitting Jihad in Allah’s cause and which ultimately resulted in their death as a nation:

أَلَمْ تَرَ إِلَى الَّذِينَ خَرَجُوا مِنْ دِيَارِهِمْ وَهُمْ أُلُوفٌ حَذَرَ الْمَوْتِ فَقَالَ لَهُمُ  
 اللَّهُ مُوتُوا ثُمَّ أَحْيَاهُمْ إِنَّ اللَّهَ لَذُو فَضْلٍ عَلَى النَّاسِ وَلَكِنَّ أَكْثَرَ النَّاسِ لَا  
 يَشْكُرُونَ ﴿٢٤٣﴾ (البقرة: 243)

*"Did you not turn thy vision to those who abandoned their homes, though they were thousands (in number), for fear of death? Allah said to them: 'Die': then he restored them to life, for Allah is full of bounty to mankind, but most of them are ungrateful."* (The Quran, 2:243)

And immediately after the above Verse, Allah has ordered Muslims to wage war:

وَقَاتِلُوا فِي سَبِيلِ اللَّهِ وَاعْلَمُوا أَنَّ اللَّهَ سَمِيعٌ عَلِيمٌ ﴿٢٤٤﴾ (البقرة: 244)

*"Then fight in the cause of Allah, and know that Allah hears and knows all things."* (The Quran, 2:244)

And after this Verse, again a mention has been made of another group of Children of Israel:

أَلَمْ تَرَ إِلَى الْعَمَلِ مِنْ بَنِي إِسْرَءِيلَ مِنْ بَعْدِ مُوسَى إِذْ قَالُوا لِنَبِيِّهِمْ ائْتِنَا  
 لَنَا مَلِكًا نُقَاتِلَ فِي سَبِيلِ اللَّهِ قَالَ هَلْ عَسَيْتُمْ إِنْ كُنْتُمْ عَلَيْهِمْ الْقِيَامُ أَنْ  
 تُقَاتِلُوا قَالُوا وَمَا لَنَا أَنْ نُقَاتِلَ فِي سَبِيلِ اللَّهِ وَقَدْ أَخْرَجَنَا مِنْ دِيَارِنَا  
 وَأَبْيَانَا فَلَئِمَّا كُنْتُمْ عَلَيْهِمُ الْقِيَامُ تَقُولُوا إِلَّا قَلِيلًا مِنْهُمْ وَاللَّهُ عَلِيمٌ  
 بِالظَّالِمِينَ ﴿٢٤٦﴾ (البقرة: 246)

*"Has thou not turned thy vision to the chiefs of the Children of Israel after (the time of) Moses they said to a Prophet (that was) among them: 'Appoint for us a King, that we may fight in the cause of Allah.' He said: 'Is it not possible, if you were commanded to fight, that you will not fight?' They said: 'How could we refuse to fight in the cause of Allah, seeing that we were turned out of our homes and our families?' But when they were commanded to fight, they turned back except a small band among them. But Allah has full knowledge of those who do wrong."*

(The Quran, 2:246)

These and many other such examples are given in the Holy Quran to explain that the most important thing for the establishment, survival and existence of Truth is the spirit of sacrifice to safeguard it, and once this spirit departs from a community or nation, it is subdued swiftly and annihilated completely thereafter.

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## CHAPTER-II

# DEFENSIVE WAR

From the foregoing discussion, it should be abundantly clear that the teaching of the Quran wants to create such an indestructible spirit of support and backing for Truth in its followers that will never allow development of any kind of weakness in them that could force them to bow down before evil and mischief, and accept the domination of tyranny and oppression. According to the teachings of the Quran, the greatest ignominy for man is to get so enamoured with his comforts, or his wealth and riches or his family and friends, as to fear the difficulties which come in the way of defending the Truth, and finding the evil more powerful accept its servitude willingly. When this weakness, which really is not the weakness of the body but the weakness of the faith and the soul, takes root in any nation or community, it automatically loses all sense of nobility and honour, and leave alone undertaking the loftiest work of upholding the Truth, it will never even succeed in keeping itself firm on the path of the Truth.

People think that the shackles of servitude do not reach the heart and soul and they only shackle the body. But, it is a fact that long before the body is enslaved, the soul would have already been enslaved, and the body wears the shameful cloak of servitude only when its soul gets stripped of the essence of courage, honour, and zeal, and when all sense of nobility and honour has departed from it. Hence the nation, which fails to protect its rights because of cowardice and weakness, and sensing the evil to be too powerful shows every inclination to surrender before it, will not have the strength and power to stick on firmly to its customs, its etiquette, its laws, and its religious and ethical principles, and stop its collective system from collapsing.

Furthermore, when the truth and the untruth are opposite to one another and cannot be put together in one place, how is it possible that a nation after accepting subjugation of untruth could, at the same time, retain the servitude of the truth, and how could it keep intact one relation of servitude after contracting another such relation. The nature of the Truth is that it is very sensitive about its singularity, and will never make the untruth its partner and thus allow a division and say that one-half is mine and one-half is yours. Therefore, whoever wants to serve the Truth should completely give up the servitude of the untruth and should keep his neck free from the chains and shackles of all kinds of other servitudes.

The Holy Quran, which, actually, is the Book most compatible with human nature, pays due regards to this secret of human nature, and thus on this basis has presented only two paths – death or honour. It has not presented the third path of honour-less life, although its followers might have adopted it themselves because of their weakness of faith and lowness of courage. It considers this kind of life ignominious and despicable, it interprets it as the wrath of Allah, it calls it the particularity of those nations who, because of their cowardice and fear of others than Allah, make themselves fit to receive Allah's rage and fury, and in its language adopting this kind of ignominious life is nothing but oppressing themselves. The Holy Quran has threatened those people, who acquiesce to such a life, with loss, humiliation and disquiet:

إِنَّ الَّذِينَ تَوَفَّيْنَاهُمُ الْغَالِبِينَ أَنفُسِهِمْ قَالُوا فِيمَ كُنْتُمْ قَالُوا كُنَّا مُسْتَضْعَفِينَ فِي الْأَرْضِ قَالُوا أَلَمْ تَكُنْ أَرْضَ اللَّهِ وَاسِعَةً فَتُهَاجِرُوا فِيهَا قَالُوا لَكَ مَاؤُنْهُمُ جَهَنَّمُ سَاءَتْ مَصِيرًا ﴿٩٧﴾

(النساء: 97)

*"When angels take the souls of those who die in sin against their souls, they say: 'In what plight were you?' They reply: 'Weak and oppressed were we in the earth.' They say: 'Was*

*not the earth of Allah spacious enough for you to move yourselves away (from evil)?' Such men will find their abode in Hell – what an evil refuge!'" (The Quran, 4:97)<sup>1</sup>*

Ponder; what a splendid teaching of national honour and pride. Those who, thinking themselves to be weak, acquiesce to the obedience of untruth are being called perpetrators of oppression on themselves. They are asked why they consented to this ignominy. When they plead weakness and oppression, it is not accepted; they are told if you were really weak, instead of acceding to this ignominy, it would have been better for you to leave your homes and settle in such a place where you were not constrained to live against your faith and conscience; for the sake of bodily comforts, why did you bear the ignominy of serving the untruth. Ultimately, in retribution for this crime, they are thrown in the pit of ignominy and chagrin called the Hell, and surely there is no other more evil a refuge than this.

## DEFENCE: AN OBLIGATION

For this very reason, though the Holy Quran has taught to be patient in all other matters, it has not taught to tolerate any attack which is carried out to obliterate the religion of Islam and to impose any other way of life than Islam. It has very strongly ordained that whoever tries to usurp your human rights, oppresses and tyrannizes you, evicts you from your lawfully-acquired properties, seizes from you the freedom of faith and conscience, prevents you from leading

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<sup>1</sup> This Verse was revealed in respect of those Muslims who had remained over in Makkah after the migration of the Prophet (peace be upon him) and general migration of other Muslims, and who, for the sake of their family comforts, trade and commerce, and properties, had chosen to live in the environment of infidelity in which they could not lead their life according to their faith and beliefs; instead, being under the pressure of the infidels, were forced to adopt many customs of infidelity, inasmuch as that because of this pressure ultimately they had to join the army of the infidels and come to the battle-field of Badar to fight against Muslims.

your life according to your religion, wants to disrupt your collective system of life, and is bent upon tormenting and terrorizing you just because you are the followers of Islam, then do not show any weakness in confronting it, and spend all your strength and power to overpower and annihilate this persecution and oppression:

وَقَاتِلُوا فِي سَبِيلِ اللَّهِ الَّذِينَ يُقَاتِلُونَكُمْ وَلَا تَعْتَدُوا إِنَّ اللَّهَ لَا يُحِبُّ  
الْمُعْتَدِينَ ۝ وَأَقْتُلُوهُمْ حَيْثُ ثَقِفْتُمُوهُمْ وَأَخْرِجُوهُمْ مِنْ حَيْثُ أَخْرَجَ  
جُوكُمْ وَالْفِتْنَةُ أَشَدُّ مِنَ الْقَتْلِ وَلَا تُقَاتِلُوهُمْ عِنْدَ الْمَسْجِدِ الْحَرَامِ حَتَّى  
يُفْعِلُوا كُفْرًا فِيهِ قَاتِلُوا كَمَا قَاتَلْتُمُوهُمْ كَذَلِكَ جَزَاءُ الْكَافِرِينَ ۝ فَإِنْ انْتَهَوْا  
فَإِنَّ اللَّهَ عَفُورٌ رَحِيمٌ ۝ وَقَاتِلُوهُمْ حَتَّى لَا تَكُونَ فِتْنَةٌ وَيَكُونَ الدِّينُ لِلَّهِ فَإِنْ  
انْتَهَوْا فَلَا عُدْوَانَ إِلَّا عَلَى الظَّالِمِينَ ۝ الشَّهْرُ الْحَرَامُ بِالشَّهْرِ الْحَرَامِ وَالْحُرُمَتُ  
قِصَاصٌ فَمَنْ اعْتَدَى عَلَيْكُمْ فَاعْتَدُوا عَلَيْهِ بِمِثْلِ مَا اعْتَدَى عَلَيْكُمْ  
وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ مَعَ الْمُتَّقِينَ ۝

(البقرة: 190-194)

*"Fight in the cause of Allah those who fight you, but do not transgress limits; for Allah loves not transgressors. And slay them wherever you catch them, and turn them out from where they have turned you out; for persecution is worse than slaughter; but fight them not at the Sacred Mosque, unless they (first) fight you there; but if they fight you, slay them. Such is the reward of those who reject faith. But if they cease, Allah is Oft-Forgiving, Most Merciful. And fight them on until there is no more persecution and the religion becomes Allah's. But if they cease, let there be no hostility except to those who practise oppression. The prohibited month for the prohibited month – and so for all things prohibited<sup>1</sup> – there is the law of equality. If then anyone transgresses the prohibition against you, transgress you*

<sup>1</sup> That is, the prohibitions which have been ordained for months and places will be honoured only when the enemy also honours it.



*likewise against him. But fear Allah, and know that Allah is with those who restrain themselves."*

*(The Quran, 2:190-194)*

This ordinance of safeguarding the religion and defence of the Islamic territories is so rigid that when any force attacks to destroy Islam and Islamic way of life, it becomes individual duty of all Muslims to come out to fight it leaving aside all other works, and not rest till they have secured Islam and the Islamic way of life from this threat. Hence, in all the books of Islamic jurisprudence it has been ordained that when the enemy attacks an Islamic state, the duty of defending it becomes as categorically mandatory on every individual Muslim as prayer and fasting. In the famous book of Islamic jurisprudence, *Bada' al-Sana' (إبدائع الصنائع)*, it is written:

*"But when a general call to arms is given that the enemy has attacked an Islamic state, Jihad (war) becomes an individual duty, and this duty becomes mandatory on each and every Muslim who is capable of undertaking Jihad... Once a "nafeer-e-am"<sup>1</sup> (general call to arms) has been given, the objective of this call is not fulfilled unless all the people do not rise up for Jihad; at that time, it becomes an individual duty like prayers and fasting. Hence, the slave without the permission of his master and the woman without the permission of her husband, should proceed (for Jihad), since in those acts of worship which are in the nature of individual duties like prayers and fasting, the right to get served by the master or the husband is suspended (during the course of attending to these duties); likewise, it becomes lawful for the son to proceed for Jihad without the permission of his parents, since the rights of parents do not affect performance of individual duties like fasting and prayers."* (Vol. 7, p. 98)

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<sup>1</sup> "Nafeer-e-am" is a terminology of Islamic jurisprudence. Its meaning is "a general call to arms," i.e. an Islamic state giving a call to the people of a particular region of the state or the entire state to take up arms in defence.

The wordings "*that the enemy has attacked an Islamic state*" clearly indicate that this individual duty does not become mandatory only when a nation attacks to annihilate Islam on account of some particular religious sentiments or causes; rather repulsing and confronting any kind of wrongful and unjust attack on an Islamic state or government on any account is categorically mandated. In Islam, freedom and perseverance are the most important things for the national life of Muslims. After losing their freedom, not only there will not remain any strength and power with Muslims to render that lofty service to humanity for which they have been raised, but they will not even be able to retain the Islamic religious system on which their religious life depends. Therefore, attack on the Islamic state and Islamic nationality is, actually, an attack on Islam, and even if the purpose of the enemy is not to annihilate Islam but is just to destroy the political power of Muslims, still to wage war against such an enemy is as mandatory as waging war against the one who wants to annihilate Islam. For this reason, defence has not been made mandatory only on the Muslims of the city or state which has been attacked; rather if they are unable to defend then it has been made mandatory on the Muslims of the entire world to protect the Muslims of that city or state from the domination of the enemy, as can be gathered from the narration of the author of *Badae'* (بدائع): "*this obligation becomes mandatory on each and every Muslim*" and "*its obligation is not fulfilled unless all the people do not rise up.*"

The author of "*Nihayah*" (نهایه) has quoted an explanation of this abstract statement from "*Zakheera*" (ذخیره) as follows:

*"It is a fact that when there is a general call to arms, Jihad becomes an individual duty for those people who are nearer to the enemy. As regards those people who are far away from the enemy, it remains a duty of adequacy (Farz al-Kifaya) i.e. if they are not in need of any help, they can*

*abstain from participating in the Jihad. But when helping them becomes essential, because of the people nearest to the enemy becoming incapable to confront and resist the attack, or because although they were not incapable but showed tardiness and did not try their best to confront and resist, then Jihad becomes an individual duty of the immediate neighbouring people like prayer and fasting, abandoning which is prohibited in any circumstances. Then likewise it becomes mandatory on the people who are nearer to them, and then on those who are nearer to them, and then it goes on becoming gradually mandatory on the people of Islam from east to west. It is similar to the funeral prayers; if anyone, even residing far away from a dead person, comes to know that the people of the area are not performing or unable to perform the last rites of the dead person then it becomes obligatory on him to perform those rites himself (i.e. perform his obsequies, offer his funeral prayers, etc.). Similar is the matter here too.” (Shami, Vol. 3, p. 240)*

In Islam, the position of this important obligation of defence is not only gauged by the fact that it has been given the status of worship and an individual duty and its pre-eminence has been described to be more than that of prayer and fasting, but by reading those Verses of Chapter 9 (*Sura Tauba*) which were revealed concerning the Battle of Tabook, it is understood that when any force or power attacks to destroy Islam and the Muslim national solidarity, and when a general call to arms is given, at that moment it also becomes the touchstone of truth and falsehood of Faith. Hence, those people who had shirked from going to war against the powerful Roman Empire to protect Islam, and who had been given permission by the Prophet (peace be upon him) to stay at home sensing their weakness of Faith, have been condemned in the following words:

عَفَا اللَّهُ عَنْكَ لِمَ أَذِنْتَ لَهُمْ حَتَّى يَتَّبِعِنَ لَكَ الَّذِينَ صَدَقُوا وَتَعْلَمَ  
الْكَاذِبِينَ ۝ لَا يَسْتَأْذِنُكَ الَّذِينَ يُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ أَنْ يُجَاهِدُوا

بِأَمْوَالِهِمْ وَأَنْفُسِهِمْ وَاللَّهُ عَلِيمٌ بِالْمُتَّقِينَ ۝ إِنَّمَا يَسْتَأْذِنُكَ الَّذِينَ لَا يُؤْمِنُونَ  
 بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَازْتَابَتْ قُلُوبُهُمْ فَهُمْ فِي رَيْبِهِمْ يَتَرَدَّدُونَ ۝ (النمل: 43-45)

*"Allah give you grace! Why did you grant them exemption until those who told the truth were seen by you in a clear light, and you had proved the liars? Those who believe in Allah and the Last Day ask you for no exemption from fighting with their goods and persons. And Allah knows well those who do their duty. Only those ask you for exemption who believe not in Allah and the Last Day, and whose hearts are in doubt, so that they are tossed in their doubts to and fro."*

*(The Quran, 9:43-45)*

## FORMS OF DEFENSIVE WAR

We understand from the aforesaid ordinances concerning defence that among those religious obligatory duties of Muslims which concern their worldly affairs, the greatest and the most important obligatory duty is protection of their religion and national sovereignty and never allowing, under any circumstance, their national and religious existence to get subdued in the face of persecution. Therefore, Islam has not only given permission to go to war, but has enjoined it; not just a simple enjoinment but rather a very strong one as has been described above.

However, this is not the only form of attack that a state, by formally declaring war, attacks an Islamic state physically and by conquering it tries to annihilate Muslims, or enslave them, or usurp their religious freedom. Apart from this, there are many other forms of attack by which a nation's peace and tranquility and its social and collective life can be endangered. Hence, now we would like to show what these forms are and what instructions the Holy Quran gives us to deal with them. For this purpose, we will collect all those Verses in which defensive war has been ordained, and the questions or issues arising out of them will also be

discussed and solved by the statements found in the Holy Quran itself or by authentic Traditions/Sayings of the Prophet so that no room is given for any kind of doubt or confusion by the introduction of personal opinions.

### 1. Confronting Oppression and Transgression

According to the leading exponents of the Quran, the first Verse that was revealed in Islam regarding war is the following Verse of *Sura Hajj* (Chapter 22):

أُذِنَ لِلَّذِينَ يُقَاتِلُونَ فِي سَبِيلِ اللَّهِ وَأَنَّ اللَّهَ عَلَىٰ نَصْرِهِمْ لَقَدِيرٌ ۝ الَّذِينَ أُخْرِجُوا مِنْ دِيَارِهِمْ بِغَيْرِ حَقٍّ إِلَّا أَنْ يَقُولُوا رَبُّنَا اللَّهُ (22:39-40)

*"To those against whom war is made, permission is given (to fight), because they are wronged; and verily Allah is Most Powerful for their aid; (they are) those who have been expelled from their homes in defiance of right, (for no cause) except that they say, 'Our Lord is Allah.'"*

(The Quran, 22:39-40)

The other Verse which Allama (Dr.) Ibn Jareer and certain other exponents consider to be the first Verse regarding war is the following Verse of *Sura al-Baqrah* (Chapter 2):

وَقَاتِلُوا فِي سَبِيلِ اللَّهِ الَّذِينَ يُقَاتِلُونَكُمْ وَلَا تَعْتَدُوا إِنَّ اللَّهَ لَا يُحِبُّ الْمُعْتَدِينَ ۝ وَأَقْتُلُوهُمْ حَيْثُ تَقْبِضُهُمْ وَأَخْرِجُوهُمْ مِنْ حَيْثُ أَخْرَجُوكُمْ وَالْفِتْنَةُ أَشَدُّ مِنَ الْقَتْلِ (2:190-191)

*"Fight in the cause of Allah those who fight you, but do not transgress limits; for Allah loves not transgressors. And slay them wherever you catch them, and turn them out from where they have turned you out; for persecution is worse than slaughter."*

(The Quran, 2:190-191)

From the above two Verses, the following laws are derived:

1. When war is waged against Muslims and they are persecuted and oppressed, they are permitted to go to war in their defence.

2. Muslims should wage war against those who seize their properties and dwellings by force, usurp their rights, and evict them from their properties and holdings.
3. When the Muslims are oppressed because of their religious beliefs and are persecuted just because they are Muslims, it is permitted for them to go to war for protecting themselves and their religious freedom.
4. Muslims should try to regain those territories from where they have been forcibly displaced or wherein their political power has been destroyed by the enemy after conquering them, and whenever they muster the required strength and power should evict their enemies from those territories from which they have been displaced.

## 2. Protecting the Path of Truth

In *Sura Anfal* (Chapter 8) of the Quran, the crime of the unbelievers, against whom war has been ordained and who have been ordered to be uprooted, has been described thus:

إِنَّ الَّذِينَ كَفَرُوا يُنْفِقُونَ أَمْوَالَهُمْ لِيَصُدُّوا عَنْ سَبِيلِ اللَّهِ فَسَيُفْضِلُونَهَا ثُمَّ  
تَكُونُ عَلَيْهِمْ حَسْرَةً ثُمَّ يُغْلَبُونَ  
(الأنفال: 36)

*"The Unbelievers spend their wealth to hinder (men) from the path of Allah, and so will they continue to spend; but in the end they will have (only) regrets and sighs: At length they will be overcome."* (The Quran, 8:36)

In the following Verses, Allah describes the army of the Quraish which had come out to fight against the Muslims at Badar and against which Allah had sent his special forces to prove the Truth to be the truth and the untruth to be the falsehood, in the following manner:

وَلَا تَكُونُوا كَالَّذِينَ خَرَجُوا مِنْ دِيَارِهِمْ بَطَرًا وَرِئَاءَ النَّاسِ وَيَصُدُّونَ عَنْ  
سَبِيلِ اللَّهِ ۖ

(الأنفال: 47)

*"And be not like those who started from their homes insolently and to be seen of men, and to hinder (men) from the path of Allah."* (The Quran, 8:47)

Again in Sura Tauba (Chapter 9), the crime of the polytheists against whom war had been ordained, has been described as:

إِشْتَرَوْا بِآيَاتِ اللَّهِ ثَمَنًا قَلِيلًا فَصَدُّوا عَنْ سَبِيلِهِ إِنَّهُمْ سَاءَ مَا كَانُوا يَعْمَلُونَ ﴿٩﴾ (التوبة: 9)

*"The Words of Allah have they sold for a miserable price, and (many) have they hindered from His Way: evil indeed are the deeds they have done."* (The Quran, 9:9)

Later, in the aforesaid Chapter 9, ordinance has been issued to fight the People of the Book by saying: قَاتِلُوا الَّذِينَ لَا يُؤْمِنُونَ بِاللَّهِ وَلَا بِالْيَوْمِ الْآخِرِ ("Fight those who believe not in Allah nor the Last Day,") (The Quran, 9:29). And then details of their crimes have been given in Verse 34 as under:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّ كَثِيرًا مِنَ الْأَحْبَارِ وَالرُّهْبَانِ لَيَأْكُلُونَ أَمْوَالَ النَّاسِ بِالْبَاطِلِ وَيَصُدُّونَ عَنْ سَبِيلِ اللَّهِ ﴿٣٤﴾ (التوبة: 34)

*"O you who believe, there are indeed many among the priests and anchorites, who in falsehood devour the wealth of men and hinder (them) from the Way of Allah."* (The Quran, 9:34)

In Sura Muhammad (Chapter 47) it has been even more clearly described:

الَّذِينَ كَفَرُوا وَصَدُّوا عَنْ سَبِيلِ اللَّهِ أَضَلَّ أَعْمَالَهُمْ ﴿١﴾ ..... فَإِذَا لَقِيتُمُ الَّذِينَ كَفَرُوا فَضَرْبَ الرِّقَابِ حَتَّى إِذَا أَتَخْتَضِعُوا لَكُم فَشُدُّوا أَلْوَتَاكُمُ فَإِنَّمَا مِنَّا جُذُؤٌ وَإِنَّمَا فِئَاءٌ حَتَّى تَضَعَ الْحَرْبُ أَوْزَارَهَا ﴿٤١﴾ (محمد: 41)

*"Those who reject Allah and hinder (men) from the Path of Allah, their deeds will Allah bring to naught. Therefore, when you meet the Unbelievers (in fight), smite at their necks; at length, when you have thoroughly subdued them,*

*bind (the captives) firmly: therefore (is the time for) either generosity or ransom; until the war lays down its burdens."*  
(The Quran, 47: 1&4)

From all the aforesaid Verses, it becomes clear that صَدُّ عَنْ سَبِيلِ اللَّهِ ("hindering from the Path of Allah") is also a crime against which waging war becomes necessary. Path of Allah means that Religion of Truth which has also been described as صِرَاطٌ مُسْتَقِيمٌ "the straight path" in the Holy Quran. It is the utmost eloquence of the Quran that it has interpreted the religion as a path or way; a path which directly leads to the goal and on which the Devil and his friends commit highway robbery. Some have taken the meaning of "Path" to be that road or way on which people usually travel and hence have interpreted the meaning of صَدُّ عَنْ سَبِيلِ اللَّهِ "hindering from the Path of Allah" as highway robbery. But in the Holy Quran the words/phrases سَبِيلِ رَبِّ ("the Path of the Lord") and سَبِيلِ اللَّهِ ("the Path of Allah") are not such words whose interpretation is very difficult to grasp. In the Verses اِدْعُ إِلَى سَبِيلِ رَبِّكَ بِالْحُكْمِ وَالْمَوْعِظَةِ الْخَيْرَةِ ("Invite (all) to the Path of your Lord with wisdom and beautiful preaching"<sup>1</sup>) and إِنَّ رَبَّكَ أَعْلَمُ مَنْ يَضِلُّ عَنْ سَبِيلِهِ وَهُوَ أَعْلَمُ بِالْمُنْتَفِعِينَ ("Your Lord knows best who strays from His Path; He knows best those who are rightly guided"<sup>2</sup>) "the Path" does not mean the roads and the path on which people walk and cars and motorcycles run, but it means that Path which leads us to Allah. In the Verse وَمَنْ يَتَّبِعِ الْكُفْرَ بِالْإِيمَانِ فَقَدْ ضَلَّ سَوَاءَ السَّبِيلِ ("And whoever changes from Faith to Unbelief, has strayed without doubt from the even path"<sup>3</sup>) also the "even path" means the Path of Faith and its opposite has been stated as the path of Unbelief. In the

<sup>1</sup> The Quran, 16:125.

<sup>2</sup> The Quran, 6:117.

<sup>3</sup> The Quran, 2:108.



Verse وَلَا تَقُولُوا لِمَن يُقْتَلُ فِي سَبِيلِ اللَّهِ أَمْوَاتٌ ۚ بَلْ أَحْيَاءٌ *("And say not of those who are slain in the Path of Allah: 'They are dead.' Nay, they are living, though you perceive (it) not"')*<sup>1</sup> too, those who are killed on the roads of clay and stones are not declared "living"; rather this lofty position is reserved but for the people who lay down their lives in the Path that leads to Allah's royal court. Hence, there should not be any doubt at all in this matter that hindering from the Path of Allah is, in fact, hindering from Islam.

Now, just ponder over the meaning of the phrase "hindering from Islam." When Islam has been referred to as a path, then necessarily the form of hindrance from it should also be similar to the hindrance created on a road. Naturally, there can be three forms of creating hindrances on a road.

1. Those who are walking on another road are stopped from coming on to this road;
2. Those who are already walking on this road, are removed from it forcibly; and
3. To create impediments in the way of users of the road; try to scare them, and harass them to such an extent that they are unable to walk on the road.

Thus, "*hindering from the Path of Allah*" will mean the following:

1. Hindering people from accepting Islam;
2. Trying to forcibly apostatize Muslims;
3. Rendering it difficult for Muslims to lead their life according to Islam.

Examples of all these three kinds of meaning are found in the Holy Quran. Annihilation and crushing the power of any group which tries to hinder the way of Islam in any of the above modes is not only the moral right of the Muslims but their religious duty too.

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<sup>1</sup> The Quran, 2:154.

### 3. Punishing Treachery and Breach of Covenants

In *Sura Anfal* (Chapter 8), one more crime against which war has been ordained, is the following:

إِنَّ شَرَّ الدَّوَابِّ عِنْدَ اللَّهِ الَّذِينَ كَفَرُوا فَهُمْ لَا يُؤْمِنُونَ ۗ الَّذِينَ عَاهَدَتْ مِنْهُمْ ثُمَّ يَنْقُضُونَ عَهْدَهُمْ فِي كُلِّ مَرْجَةٍ وَهُمْ لَا يَتَّقُونَ ۗ فَإِنَّمَا تَعَفُّهُمْ فِي الْحَرْبِ فَشَرِّدْ بِهِمْ مَنِ حَلَفَهُمْ لَعَلَّهُمْ يَذَّكَّرُونَ ۗ وَإِنَّمَا تَحَاقَنَ مِنْ قَوْمٍ حِيَاةٌ فَلْيُزِلْ إِلَيْهِمْ عَلَى سَوَاءٍ ۗ إِنَّ اللَّهَ لَا يُحِبُّ الْخَائِبِينَ ۝ (الأنفال: 55-58)

*"For the worst of beasts in the sight of Allah are those who reject Him; they will not believe. They are those with whom you did make a covenant every time, and they have not the fear (of Allah). If you gain the mastery over them in war, disperse, with them, those who follow them, that they may remember. If you fear treachery from any group, throw back (their covenant) to them, (so as to be) on equal terms; for Allah loves not the treacherous."* (The Quran, 8:55-58)

Similarly, in *Sura Tauba* (Chapter 9), those Unbelievers, who had been contracting treaties and alliances and breaching them frequently, have been sternly addressed as under:

بَرَاءَةٌ مِنَ اللَّهِ وَرَسُولِهِ إِلَى الَّذِينَ عَاهَدْتُمْ مِنَ الْمُشْرِكِينَ ۖ فَسِيحُوا فِي الْأَرْضِ أَرْبَعَةَ أَشْهُرٍ وَاعْلَمُوا أَنَّكُمْ غَيْرُ مُعْجِزِي اللَّهِ وَأَنَّ اللَّهَ مُخْزِي الْكَافِرِينَ ۝

(التوبة: 1-2)

*"A (declaration) of immunity from Allah and His Messenger, to those of the Pagans with whom you have contracted mutual alliances: Go you, then for four months, (as you will), throughout the land, but know yet that you cannot frustrate Allah (by your falsehood); but that Allah will cover with shame those who reject Him."*

(The Quran, 9:1-2)

However, with regard to those polytheists/pagans who had not breached their treaties it was ordained: فَأَيْمُوا إِلَيْهِمْ (So fulfil your engagements with them for the

end of their term"<sup>1</sup>), and then again it is stated about those who had breached their treaties thus:

فَإِذَا انسَلَخَ الْأَشْهُرُ الْحُرُمُ فَاقْتُلُوا الْمُشْرِكِينَ حَيْثُ وَجَدْتُمُوهُمْ وَخُذُواهُمْ  
وَأَحْصُرُواهُمْ وَاقْعُدُوا لَهُمْ كُلَّ مَرْصِدٍ إِنَّا تَابُوا وَآقَامُوا الصَّلَاةَ وَآتَوُا  
الزَّكَاةَ فَخَلَّوْا سَبِيلَهُمْ إِنَّ اللَّهَ غَفُورٌ رَحِيمٌ ﴿٥﴾ (التوبة: 5)

*"But when the forbidden months are past, then fight and slay the Pagans wherever you find them, and seize them, beleaguer them, and lie in wait for them in every stratagem (of war).*

*But if they repent, and establish regular prayers, and pay Zakat then open the way for them; for Allah is Oft-forgiving, Most Merciful."* (The Quran, 9:5)

Further on, it is again declared regarding these treacherous and deceitful pagans/polytheists that:

كَيْفَ يَكُونُ لِلْمُشْرِكِينَ عَهْدٌ عِنْدَ اللَّهِ وَعِنْدَ رَسُولِهِ إِلَّا الَّذِينَ عَاهَدُوا عِنْدَ  
الْمَسْجِدِ الْحَرَامِ فَمَا اسْتَقَامُوا لَكُمْ فَاسْتَقِيمُوا لَهُمْ إِنَّ اللَّهَ يُحِبُّ  
الْمُتَّقِينَ ﴿٨﴾ كَيْفَ وَإِنْ يَظْهَرُوا عَلَيْكُمْ لَا يَرْقُبُوا فِيكُمْ إِلَّا وَلَا ذِمَّةً  
يُرْضَوْنَكُمْ بِأَفْوَاهِهِمْ وَتَأْبَىٰ قُلُوبُهُمْ وَأَكْثَرُهُمْ فَاسِقُونَ ﴿٨﴾ (التوبة: 7-8)

*"How can there be a covenant before Allah and His Messenger, with the Pagans, except those with whom you made a treaty near the Sacred Mosque? As long as these stand true to you, stand you true to them; for Allah does love the righteous. How (can there be such a covenant) seeing that if they get an advantage over you, they respect not in you the ties either of kinship or of covenant? With (fair words from) their mouths they please you, but their hearts are averse from you; and most of them are rebellious and wicked."*

*(The Quran, 9:7-8)*

Thereafter, it is further stated about these treacherous people:

<sup>1</sup> The Quran, 9:4.

لَا يَرْفُقُونَ فِي مَوَاقِفٍ إِلَّا وَلَا ذِمَّةً وَأُولَئِكَ هُمُ الْمُعْتَدُونَ ۖ فَإِنْ تَابُوا  
وَأَقَامُوا الصَّلَاةَ وَآتَوُا الزَّكَاةَ فَآخَوْا نَكُمْ فِي الدِّينِ وَتُقْضَىٰ إِلَيْكُمْ أَلْيَتُ الْقَوْمِ  
يَعْلَمُونَ ۖ وَإِنْ لَكَبُورًا أَلَيْسَ لَهُمْ مَبْعَدٌ مِنْ عَهْدِهِمْ وَطَعْنُوا فِي دِينِكُمْ فَقَاتِلُوا  
أَيُّةَ الْكُفْرِ إِنَّهُمْ لَا أَيْمَانَ لَهُمْ لَعَلَّهُمْ يَنْتَهُونَ ۚ أَلَا تُقَاتِلُونَ قَوْمًا لَكَبُورًا  
أَلَيْسَ لَهُمْ مَبْعَدٌ يَخْرُجُ الرُّسُولُ وَهُمْ يَدَّعُونَكُمْ أَوَّلَ مَرَّةٍ أَتَخْشَوْنَهُمْ قَالَ  
أَحَقُّ أَنْ تَخْشَوْا إِنْ كُنْتُمْ مُؤْمِنِينَ ۚ قَاتِلُوهُمْ يُعَذِّبُهُمُ اللَّهُ بِأَيْدِيكُمْ وَيُخْزِيهِمْ  
وَيَنْصُرْكُمْ عَلَيْهِمْ وَيَمْفِصْ صُدُورَ قَوْمٍ مُؤْمِنِينَ ﴿١٤﴾

(النور: 10-14)

*"In a Believer they respect not the ties either of kinship or of covenant! It is they who have transgressed all bounds. But (even so), if they repent, establish regular prayers, and pay Zakat they are your brethren in Faith; (thus) do We explain the Signs in detail, for those who understand. But if they violate their oaths after their covenant, and attack your Faith, fight you the chiefs of Unfaith; for their oaths are nothing to them; that thus they may be restrained. Will you not fight people who violated their oaths, plotted to expel the Messenger, and attacked you first? Do you fear them? It is Allah whom you should more justly fear, if you believe. Fight them, and Allah will punish them by your hands, and disgrace them, help you (to victory) over them, heal the breasts of Believers."* (The Quran, 9:10-14)

By a careful examination of all the aforesaid Verses and the context in which they were revealed, we come to understand that:

1. War should be waged against those who enter into treaties with Muslims and then break them. In this ordinance, those Unbelievers are also included who, after entering into a treaty of allegiance with Muslims, revolt against them and the Islamic state.
2. Those with whom there is a treaty, but their attitude is hostile and malicious and there is always an apprehension of getting harmed by them, notice of annulment of the treaty should be given to them openly,

and severe action should be taken to end their hostility and malice.

3. Muslims have been ordained to be always in the state of war against those who, time and again, are in the habit of acting treacherously and traitorously and whose promises and covenants can no longer be believed, and who do not take into consideration any ethical or humane laws while causing harm and hurt to the Muslims. They can have peace only on the condition that they repent and accept Islam; otherwise, to protect Islam and the Islamic state from their harmful activities, it has been made necessary to kill them, arrest them, siege them and adopt any such other strategies of war that become essential.

#### 4. Annihilation of Internal Enemies

Apart from the aforesaid external enemies, there will be some internal enemies too who although outwardly show amity, but secretly will always be trying to uproot Islam. These people belong to that group, which is comprehensively and aptly described by the Holy Quran as the group of "hypocrites." The Holy Quran gives the following instructions to deal with such hypocrites:

يَا أَيُّهَا النَّبِيُّ جَاهِدِ الْكُفَّارَ وَالْمُنَافِقِينَ وَاغْلُظْ عَلَيْهِمْ وَمَأْوَاهُمْ جَهَنَّمُ وَبِئْسَ

الْمَصِيرُ ﴿٧٣﴾ (التوبة: 73)

"O Prophet! Strive hard against the Unbelievers and the Hypocrites, and be firm against them. Their abode is Hell, an evil refuge indeed." (The Quran, 9:73)

لَئِنْ لَمْ يَنْتَهِ الْمُنَافِقُونَ وَالَّذِينَ فِي قُلُوبِهِمْ مَرَضٌ وَالْمُرْجِفُونَ فِي الْمَدِينَةِ لَنُغْرِيَنَّكَ بِهِمْ ثُمَّ لَا يُجَاوِرُونَكَ فِيهَا إِلَّا قَلِيلًا ۖ مَلْعُونِينَ أَيْنَمَا ثُقِفُوا

أُحْذَرُوا وَقَاتِلُوا مُتَعَبِينَ ﴿٦١﴾ (الأعراف: 60-61)

"Truly, if the Hypocrites, and those in whose hearts is a disease, and those who stir up sedition in the City, desist

*not, We shall certainly stir you up against them; then will they not be able to stay in it as your neighbours for any length of time. They shall have a curse on them; wherever they are found, they shall be seized and slain."*

(The Quran, 33:60-61)

وَدُّوا لَوْ تَكْفُرُونَ كَمَا كَفَرُوا فَتَكُونُونَ سَوَاءً فَلَا تَتَّخِذُوا مِنْهُمْ أَوْلِيَاءَ حَتَّىٰ يُهَاجِرُوا فِي سَبِيلِ اللَّهِ فَإِنْ تَوَلَّوْا فَخُذُوهُمْ وَاقْتُلُوهُمْ حَيْثُ وَجَدْتُمُوهُمْ وَلَا تَتَّخِذُوا مِنْهُمْ وِلِيَاءَ وَلَا نَصِيرًا ﴿٨٩﴾  
(النساء: 89)

*"They but wish that you should reject Faith, as they do, and thus be on the same footing (as they); so take not friends from their ranks until they flee in the way of Allah (from what is forbidden). But if they turn renegades, seize them and slay them wherever you find them; and (in any case) take no friends or helpers from their ranks."*

(The Quran, 4:89)

سَتَجِدُونَ آخَرِينَ يُرِيدُونَ أَنْ يَأْمَنُوكُمْ وَيَأْمَنُوا قَوْمَهُمْ كُلًّا رُذُّوا إِلَىٰ الْفِتْنَةِ أُرْكِسُوا فِيهَا فَإِنْ لَّمْ يَعْتَزِلُوكُمْ وَيُلْقُوا إِلَيْكُمُ السَّلَامَ وَيَكْفُرُوا أَيْدِيَهُمْ فُخِّدُوهُمْ فَاغْلُظْهُمْ حَيْثُ تُقِفْتُمُوهُمْ وَأُولَٰئِكَ جَعَلْنَا لَكُمْ عَلَيْهِمْ سُلْطَانًا مُّبِينًا ﴿٩١﴾  
(النساء: 91)

*"Others you will find that wish to be secure from you as well as that of their people; every time they are sent back to temptation, they succumb thereto; if they withdraw not from you nor give you (guarantees) of peace besides restraining their hands, seize them and slay them wherever you get them; in their case We have provided you with a clear argument against them."*

(The Quran, 4:91)

In the aforesaid Verses, that particular crime of the hypocrites has also been pointed out on account of which they had become liable for slaying. However, to clarify this point further, we quote here some more Verses from the Holy Quran that gives a full description of the characteristics of hypocrites. In *Sura Nisa* (Chapter 4), it is stated:

وَيَقُولُونَ طَاعَةٌ فَإِذَا بَرَزُوا مِنْ عِنْدِكَ بَيَّتَ طَائِفَةٌ مِنْهُمْ غَيْرَ الَّذِي تَقُولُ  
وَاللَّهُ يَكْتُبُ مَا يُبَيِّتُونَ ﴿٨١﴾ (النساء: 81)

"They have 'Obedience' on their lips; but when they leave you, a section of them meditate all night on things very different from what you tell them. But Allah records their nightly plots." (The Quran, 4:81)

In Sura Tauba (Chapter 9), it is said:

لَوْ خَرَجُوا فِيكُمْ مَا زَادُوكُمْ إِلَّا خَبَالًا وَلَا أُصْعُقُوا جِلْدَكُمْ يَبْغُوا نَفْسَكُمْ الْفِئْتَةَ  
وَفِيكُمْ سَمْعُونَ لَهُمْ ۖ وَاللَّهُ عَلِيمٌ بِالظَّالِمِينَ ﴿٤٨﴾ لَقَدْ ابْتَغُوا الْفِئْتَةَ مِنْ قَبْلُ  
وَقَلْبُوا لَكَ الْأُمُورَ حَتَّى جَاءَ الْحَقُّ وَظَهَرَ أَمْرُ اللَّهِ وَهُمْ كَرِهُونَ ﴿٤٧﴾ (التوبة: 47-48)

"If they had come out with you, they would not have added to your (strength) but only (made for) disorder, hurrying to and fro in your midst and sowing sedition among you. And there would have been some among you who would have listened to them, but Allah knows well those who do wrong. Indeed they had plotted sedition before, and upset matters for you, until the truth arrived, and the Decree of Allah became manifest, much to their disgust."

(The Quran, 9:47-48)

وَيَجْلِفُونَ بِاللَّهِ لَيْسَ لَكُمْ وَمَا هُمْ مِنْكُمْ وَلَكِنَّهُمْ قَوْمٌ يَفْقَهُونَ ﴿٥٦﴾ لَوْ  
يَجِدُونَ مَلْجَأً أَوْ مَخْرِبًا أَوْ مَدْخَلًا لَوَلَّوْا إِلَيْهِ وَهُمْ يَجْمَعُونَ ﴿٥٧﴾ (التوبة: 56-57)

"They swear by Allah that they are indeed of you; but they are not of you; yet they are afraid (of you). If they could find a place to flee to, or caves, or a place of concealment, they would turn straightway thereto with an obstinate rush." (The Quran, 9:56-57)

الْمُنَافِقُونَ وَالْمُنَافِقَاتُ بَعْضُهُمْ مِنْ بَعْضٍ يَأْمُرُونَ بِالْبُغْكِ وَيَنْهَوْنَ عَنِ  
الْبُغْكِ وَيُقِيمُونَ آيَاتِهِمْ نُسُوا اللَّهَ فَلَيْسَ بِهِمْ إِنْ الْمُنَافِقِينَ هُمْ  
الْفَاسِقُونَ ﴿٦٧﴾ (التوبة: 67)

"The Hypocrites, men and women, are alike; they enjoin evil, and forbid what is just, and tighten their purse's

*strings. They have forgotten Allah; so He has forgotten them. Verily the Hypocrites are rebellious and perverse."*

*(The Quran, 9:67)*

In Sura Ahzab (Chapter 33), it is averred:

وَإِذْ يَقُولُ الْمُنَافِقُونَ وَالَّذِينَ فِي قُلُوبِهِمْ مَرَضٌ مَا وَعَدَنَا اللَّهُ وَرَسُولُهُ إِلَّا  
عُرُوزًا ۖ وَإِذْ قَالَتْ طَائِفَةٌ مِنْهُمْ يَا أَهْلَ يَثْرِبَ لَا مُقَامَ لَكُمْ فَارْجِعُوا  
وَيَسْتَأْذِنُ فَرِيقٌ مِنْهُمُ النَّبِيَّ يَقُولُونَ إِنَّ بُيُوتَنَا عَوْرَةٌ وَمَا هِيَ بِعَوْرَةٍ إِنْ  
يُرِيدُونَ إِلَّا فِرَارًا ۖ وَلَوْ دُخِلَتْ عَلَيْهِمْ مِنْ أَقْطَارِهَا ثُمَّ سَبَلُوا فَتِنَّةً  
لَأَنزَلْنَاهَا وَمَا تَلْبَثُوا فِيهَا إِلَّا نَجْدًا ۚ ﴿١٢-١٤﴾ (الأحزاب: 12-14)

*"And behold! The Hypocrites and those in whose hearts is a disease began saying (during the Battle of Ahzab): 'Allah and His Messenger promised us nothing but delusions!' Behold! A party among them said: 'You men of Yathrib! You cannot stand (the attack)! Therefore go back!' And a band of them ask for leave of the Prophet, saying, 'Truly our houses are bare and exposed,' though they were not exposed; they intended nothing but to run away. And if an entry had been effected to them from the sides of the (City), and they had been incited to sedition, they would certainly have brought it to pass, with none but a brief delay!*

*(The Quran, 33:12-14)*

In Sura Munafiqoon (Chapter 63), it is stated:

إِذَا جَاءَكَ الْمُنَافِقُونَ قَالُوا نَشْهَدُ إِنَّكَ لَرَسُولُ اللَّهِ - وَاللَّهُ يَعْلَمُ إِنَّكَ  
لَرَسُولُهُ - وَاللَّهُ يَشْهَدُ إِنَّ الْمُنَافِقِينَ لَكَاذِبُونَ ۖ ﴿١﴾ ائْتَمِدُوا آبَاءَهُمْ حُتَّىٰ فَصَدُوا  
عَنْ سَبِيلِ اللَّهِ - إِنَّهُمْ سَاءَ مَا كَانُوا يَعْمَلُونَ ﴿٢﴾ (النفاق: 1-2)

*"When the Hypocrites come to you, they say, 'We bear witness that you are indeed the Messenger of Allah.' Yea, Allah knows that you are indeed His Messenger. And Allah bears witness that the Hypocrites are indeed liars. They have made their oaths a screen (for their misdeeds); thus they obstruct (men) from the Path of Allah; truly evil are their deeds."*

*(The Quran, 63:1-2)*



All the aforesaid Verses indicate that among the Hypocrites there is a group who cannot be treated as Muslims even outwardly. The particularity of this group is that even after claiming to be part of the Muslim community it brazenly sides with the untruth. Or it usually declares Faith outwardly, but its actions are such that it is always looking out for ways and means to torment Muslims; always making plans to harm them; conspires with their enemies and supplies them with confidential information; tries to mislead them and create misunderstanding with regard to their Faith; tries to create discord in the Muslim community with its intrigues and machination; extends all moral and material help and assistance to their enemies; and whenever Islam passes through difficult circumstance, instead of protecting it, it tries to annihilate it. This group is more dangerous for Islam than its external enemies. Therefore, those people who belong to this treacherous group, whether they declare Faith in the Unity of God and the Prophethood, and whether, outwardly, there seems to be no doubt about their being Muslims, they should not be given any leeway whatsoever, and whenever they commit these crimes, we should put these abscesses on the body of Islam under the scalpel of reformation without showing any mercy whatsoever.

## **5. Maintenance of Internal Peace**

There is another kind of enemy, who either residing inside the Islamic state or intruding from outside, causes mischief, commits highway robberies, indulges in widespread killings and destruction, and disrupts the peace and tranquility of an Islamic state, or tries to overthrow the Islamic government by violent means. In the Holy Quran, the following order has been issued against such miscreants:

إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا  
أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ خِلَافٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَلِكَ  
لَهُمْ حِزْبٌ فِي الدُّنْيَا وَلَهُمْ فِي الْآخِرَةِ عَذَابٌ عَظِيمٌ ﴿٣٣-٣٤﴾ (المائدة: 33-34)

*"The punishment of those who wage war against Allah and His Messenger, and strive with might and main for mischief through the land is: execution, or crucifixion, or the cutting off of hands and feet from opposite sides, or exile from the land; that is their disgrace in this world, and a heavy punishment is theirs in the Hereafter; except for those who repent before they fall into your Power; in that case, know that Allah is Oft-forgiving, Most Merciful."*

(The Quran, 5:33-34)

In the above Verse, from the words *وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا* (*"who wage war against Allah and His Messenger"*) the ignorant are mistaken that it means those Unbelievers with whom a formal battle is being waged. But actually here waging war against Allah and His Messenger means: *سعى* (*"strive with might and main for mischief through the land"*) which has been mentioned as an explanation soon after the above phrase.<sup>1</sup> The context in which this Verse was revealed also supports this meaning that the ordinance contained in it concerns the mischief-mongers and those who rise in armed rebellion against the established peace and constitution. It is reported by Hazrat Anas bin Malik that some people from the tribe of `Uraina came to the Prophet of Allah and after embracing Islam began to live in Madeena. But the climate of Madeena did not suit them and they fell ill. According to another report,

<sup>1</sup> Here the terminology of *"war against Allah and His Messenger"* has been used in the very sense in which the terminology of *"waging war against the King"* was being used under the Penal Code of British India. Under Islamic jurisprudence, it means two kinds of crimes: The first is that crime whose purpose is to create chaos in the Islamic territory by highway robberies, killings and destruction; and the second is that crime whose purpose is to establish a non-Islamic way of life after obliterating by force the Islamic way of life.

their colour turned yellowish and their stomachs swelled. The Prophet of Allah told them: "If you go and live with our camels and drink their milk and urine as medicine,<sup>1</sup> your health will be restored." Hence they went to the pastures outside Madeena and began living there with the camels; when they fully recovered they killed the shepherds, took away the camels and apostatized from Islam. When the Prophet (peace be upon him) came to know about this incident, he got these people arrested and brought in, got their hands and legs hacked off and their eyes gouged out, and left them in the sun till they died.<sup>2</sup>

In *Sahih Bukhari* too, narrations comprising this matter have been reported from different chains of narrators, and Imam Bukhari has written them down under the Chapter: "*Ordinance of Allah the Almighty with regard to the punishment for waging war against Allah and His Messenger.*" In *Sahih Muslim*, quoting Hazrat Anas, the reason for gouging out the eyes of the culprits is given as that they had smashed the eyes of the Prophet's shepherds by drawing hot wires over them; therefore, the Prophet had applied the Law of Equality in this respect. *Abu Dawood* and *Nasayee* have quoted a narration of Hazrat Abdullah bin 'Umar through Abu az-Zanaad that this Verse was revealed in respect of these 'Urainites, and Hazrat Abu Huraira also says so. Although a group of eminent Islamic legists are of the opinion that this Verse was revealed in respect of these 'Urainites, it is, however, unanimously agreed that these exemplary punishments prescribed in this Verse of the Holy Quran are meant for the people who try to breach the peace in the Islamic territory by resorting to

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<sup>1</sup> This is how it has been mentioned in the tradition of the Prophet. It is possible that this suggestion was given on medical grounds and according to the medical knowledge available at the time this must have been the only treatment available for this particular disease. On this basis it has been permitted to use forbidden things for treatment of diseases when their permitted substitutes are not known or are unavailable.

<sup>2</sup> Ibn Maaja.

robbery, killings and destruction, and the different grades of punishment prescribed therein are for different stages of the crime, details of which have been very clearly set out by the Islamic jurists.

## 6. Defence of Oppressed Muslims

One more form of defensive war where Muslims have been given permission to take up arms is to free that group or community of Muslims which, being weak and powerless, has been subjugated by its enemies, and which do not have enough strength and power to free themselves on their own. In such circumstances, it is obligatory on the part of those Muslims, who are free and have the required military power, to wage war and free their oppressed brethren. The Holy Quran exhorts:

وَمَا لَكُمْ لَا تُقَاتِلُونَ فِي سَبِيلِ اللَّهِ وَالْمُسْتَضْعَفِينَ مِنَ الرِّجَالِ وَالنِّسَاءِ وَالْوِلْدَانِ الَّذِينَ يَقُولُونَ رَبَّنَا أَخْرِجْنَا مِنْ هَذِهِ الْقَرْيَةِ الظَّالِمِ أَهْلُهَا وَاجْعَلْ لَنَا مِنْ لَدُنْكَ وَلِيًّا وَاجْعَلْ لَنَا مِنْ لَدُنْكَ نَصِيرًا ﴿٧٥﴾  
(النِّسَاء: 75)

*"And why should you not fight in the Cause of Allah and of those who, being weak, are ill-treated (and oppressed)? Men, women, and children, whose cry is: 'Our Lord! Rescue us from this town*

*whose people are oppressors; and raise for us from Thee one who will protect; and raise for us from Thee one who will help."* (The Quran, 4:75)

In another place, importance of extending this help has been mentioned more clearly and is stressed upon in the following manner:

وَالَّذِينَ آمَنُوا وَلَمْ يُهَاجِرُوا مَا لَكُمْ مِنْ وَلَا يَتَّبِعُهُمْ مِنْ شَيْءٍ حَتَّى يُهَاجِرُوا وَإِنْ اسْتَنْصَرُوكُمْ فِي الدِّينِ فَعَلَيْكُمْ النَّصْرُ إِلَّا عَلَى قَوْمٍ بَيْنَكُمْ وَبَيْنَهُمْ مِيقَاتٌ وَاللَّهُ يَمَّا تَعْمَلُونَ بَصِيرٌ ﴿٧٢﴾ وَالَّذِينَ كَفَرُوا بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ إِلَّا تَفْعَلُوا تَكُنْ فِتْنَةً فِي الْأَرْضِ وَفَسَادٌ كَبِيرٌ ﴿٧٣﴾  
(الأنفال: 72-73)

*As to those who believed but did not emigrate you owe no duty of protection to them until they emigrate; but if they seek your aid in religion, it is your duty to help them, except against a people with whom you have a treaty of mutual alliance; and (remember) Allah sees all that you do. The Unbelievers are protectors, one of another; unless you do this (protect each other), there would be tumult and oppression on earth, and great mischief."*

*(The Quran, 8:72-73)*

In these Verses, the relationship between the free Muslims and the enslaved Muslims has been very clearly described. First, by saying *مَا لَكُمْ مِنْ وَلَايَتِهِمْ مِنْ شَيْءٍ* ("you owe no duty of protection to them") it has been made clear that there cannot be any kind of social and political relations of the Muslims of a Islamic country with those Muslims who chose or forced to remain in the territories of Unbelievers; i.e. neither can they form relationships by way of mutual marriages, nor can they get inheritance of one another, nor can they receive any share from war booty and conquered lands, nor can they be listed to receive alms and Zakat, and nor can they be appointed to any office in the Islamic government unless they emigrate from the territories of the Unbelievers and settle in the Islamic country as its citizens. However, in spite of severing the relations of kinship and amity, one relation has not been severed, and by saying *إِنْ اسْتَنْصَرُوكُمْ فِي الدِّينِ* ("but if they seek your aid in religion"), it has been made abundantly clear that the relation of extending aid exists with the relationship of the religion. As long as a person is a Muslim, the relationship of aiding and helping him will never be disrupted no matter in which corner of the world he lives in. If there is a risk to his religion or he is being oppressed, and he seeks help on the basis of religious relationship, it is obligatory on Muslims to go and help him, on the condition that there is no treaty of mutual alliance between Muslims and the party against whom help has been sought. Because, when there is a

treaty, it is more important to honour the treaty than helping their Muslim brother, and it is not permissible for the Muslims to help him before the expiry of the term of the treaty. After issuing this ordinance, the necessity and importance of aiding and helping has been stressed upon, and it is stated that look how these Unbelievers help each other in the obliteration of Islam, and how they become united in confronting Muslims, in spite of their mutual differences and enmity. Hence, it is exhorted that if you do not respect the religious relationship and do not aid and help one another, there would be tumult, oppression and great mischief on the earth.

The word "*tumult or oppression*," as we will explain later in great detail, has been used under the Quranic terminology and means domination of Unbelief, and oppression and humiliation of the followers of the Truth. Similarly, the word "*mischief*" is used to describe domination of the untruth over the Truth and obliteration of the good and the virtuous. Hence, Allah interprets obliteration of a Muslim group or leading it astray from the Truth as tumult and mischief, and declares it obligatory on Muslims to confront it.

## **OBJECTIVE OF THE DEFENSIVE WAR**

If you pass a transient glance over all the forms of defensive war that have been discussed above, you will find only one objective in all of them; it is that Muslims should not allow, in any circumstances, domination of evil and mischief over their religion and national entity, and they should always be alert and in prime preparedness to annihilate this evil whether it rises and attacks from within or without. For the performance of these activities, the first and foremost thing necessary for Muslims is securing them from the mischief and the tumults, and strengthening their political and national powers. If they do not secure themselves from obliteration, and by ignoring to take care

of their internal and external enemies contract all those collective and social diseases which disgraced the previous nations and communities and invited Allah's wrath on them, it is apparent, that not only they will destroy themselves, but will not be able to perform the duties and services for which they have been raised; and this will not only be an act of oppression on themselves but on the entire humanity. Therefore, all the characteristics and signs of those enemies of Muslims who are the cause or can become the cause for their destruction, have been very clearly and elaborately described, and the Muslims have been strictly instructed to break the backs of each of them so that they are rendered incapable of obliterating the light of the Truth and becoming an impediment in the work of world-wide probity and prosperity. And then again, it has not been instructed to pick up the arms only when the evil raises its head and starts its mischievous activities, but it has been emphasized to be always alert and in a state of full preparedness so that the evil does not have the courage to raise its head and is so terrified of the Truth that its noxious doctrines die within itself. The Holy Quran instructs:

وَأَعِدُّوا لَهُمْ مَا اسْتَطَعْتُمْ مِنْ قُوَّةٍ وَمِنْ رِبَاطِ الْخَيْلِ تُرْهِبُونَ بِهِ عَدُوَّ اللَّهِ  
وَعَدُوَّكُمْ وَآخَرِينَ مِنْ دُونِهِمْ لَا تَعْلَمُونَهُمُ اللَّهُ يَعْلَمُهُمْ وَمَا تُنْفِقُوا مِنْ  
شَيْءٍ فِي سَبِيلِ اللَّهِ يُوَفَّ إِلَيْكُمْ وَأَنْتُمْ لَا تُظْلَمُونَ ﴿٦٠﴾  
(الأنفال: 60)

*"Against them make ready your strength to the utmost of your power, including steeds of war, to strike terror into (the hearts of) the enemies, of Allah and your enemies, and others besides, whom you may not know, but whom Allah does know. Whatever you shall spend in the Cause of Allah, shall be repaid unto you, and you shall not be treated unjustly."*

(The Quran, 8:60)

This Verse indicates that war preparedness will not be adequate by forming temporary militias who are raised for some particular objective and when the objective is accomplished they are disbanded; rather Muslims should

always have a standing army which is always well and fully prepared and equipped to meet any contingency. On pondering over the wordings of the Verse, many extraordinary meanings come to light. The word used for weapons and other war equipment is just قُوَّةٌ "*strength*," which equally encompasses the arrows and catapults of the first century Hijri to the cannon, airplanes and submarines of the 14<sup>th</sup> century Hijri, and all kinds of military weapons and equipment which could be discovered and produced in the coming centuries. The words مَا اسْتَطَعْتُمْ ("to the utmost of your power") have limited the quantity of قُوَّةٌ ("*strength*") to the potency and capacity of Muslims, i.e. if they are capable of raising and maintaining a very well-armed military force, then they have to do it. However, this obligation does not get lapsed if they are unable to procure bigger cannon, bigger war planes and ships, and other lethal weapons, rather they should adopt every such means of war which can be used against the enemies of the Truth and which can be procured easily by them. Then, pointing out the expediency of keeping ready رِجَالُ الْخَيْلِ ("*steeds of war*") as تُزْهِبُونَ بِهِ عَدُوَّ اللَّهِ وَعَدُوَّكُمْ ("to strike terror into (the hearts of) the enemies of Allah and your enemies"), the wordings وَأَخْرَيْنَ مِنْ دُونِهِمْ لَا تَعْلَمُونَهُمُ اللَّهُ يَعْلَمُهُمْ ("*and others besides, whom you may not know, but whom Allah does know*") point to an important point of politics that if a nation keeps its military power stronger, not only its avowed enemies are cowed down and are terrified of it, but gradually their awe and dread is so profound that others cannot even think of committing any act of aggression against it, and those evil forces which, finding it weak and vulnerable, would have unhesitatingly attacked it, would be so submissive and friendly that even their hidden unruly nature does not even come to fore. After this, one essential property of the economic system has been expounded; do not ever think



that the money that is spent in this war preparedness has gone waste and that you were deprived of its benefits; actually you get it back and you get it back in the form that you are never oppressed and persecuted, and you will reap the benefits of living in a peaceful environment, safe from oppression and persecution. There is a promise of benefits of both this world and the Hereafter, and safety from oppression and persecution in the wordings **يُوفَىٰ إِلَيْكُمْ وَأَنْتُمْ لَا تُظَلَمُونَ** (*"shall be repaid unto you, and you shall not be treated unjustly"*), and in fact, this sentence encompasses both, because the excellence of the worldly life of Muslims lies in the excellence of their religious life, and the deficiency of their worldly life results when they are

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## CHAPTER-III

## REFORMATIVE WAR

Now we have to deliberate the purpose of the national power of the Muslims which has been secured from obliteration through the ordinances of defensive war. Whether its purpose is just merely to secure this power or is this power to be used to achieve something else for which it is necessary to secure it from tumults and mischief? In the previous pages, the purpose of our pointing out of the fact again and again that Muslims, after losing their national power, will not remain capable of accomplishing that "real service" for which they have been raised, answers this very question. There the occasion was not ripe for any detailed discussion and only some hints were given. But now we have reached that stage of the discussion where there will not be any room for confusion if this knot is untied.

The Holy Quran, although being a compendious book, holds details about each and every aspect of the Islamic teaching. It not only describes the purpose for which the Muslims have been raised, but also describes that "real service" for the accomplishment of which their power has been secured through such elaborate arrangements. Hence, it is stated in the Holy Quran:

كُنْتُمْ خَيْرَ أُمَّةٍ أُخْرِجَتْ لِلنَّاسِ تَأْمُرُونَ بِالْمَعْرُوفِ وَتَنْهَوْنَ عَنِ الْمُنْكَرِ

(آل عمران: 110)

وَتُؤْمِنُونَ بِاللَّهِ

*"You are the best of people, evolved for mankind, enjoining what is right and forbidding what is wrong, and believing in Allah."*  
(The Quran, 3:110)

In this Verse, it is not stated "evolved for Arabs," or "evolved for Persians or non-Arabs," or "evolved for east," rather, it is stated "evolved for mankind," by which

it is understood that Muslims have not been raised for any particular race or any particular country, but have been raised to serve the entire humanity, and that service to humanity is they should **enjoin what is right and forbid what is wrong**.

Those narrow minds that have been brought up in the environment of nationalism and patriotism cannot even imagine that the objective of a people could be service to entire humanity. They understand very well nationalism and patriotism, nationalism being the pinnacle of their visualization, but rendering active service to humanity rising above all the geographical and racial boundaries and making it the sole purpose of their life, is beyond their imagination. Therefore, we will explain the meaning of the term أَخْرَجَتْ لِلنَّاسِ ("evolved for mankind") first.

## ETHICAL VISULIZATION OF COLLECTIVE DUTIES

If we analyze the natural desires of man, we will come to know that basically there is no desire in him which is not found even in the animals of the lowest level. As man is desirous of eating different kinds of delicious foods, so also a horse desires that he gets plenty of fresh, green grass to eat. As man feels elated when he has been able to cow down and dominate another member of his species, so also for a ram there is no other occasion to feel excited and elated when no other ram stands up to his ramming. As man adopts various defensive and protective methods to protect and safeguard his life, so also this natural instinct is found even in a very small insect. Hence, as far as mere desires are concerned, there is no difference between man and animal. However, the thing which sets him apart from the animals is that the ultimate goal of animals is to fulfil their desires, whereas man's purpose of life is not acquisition and attainment of these desires, but they are the essential means which he tries to acquire to achieve and

reach a different loftier goal. In fact, if there is no loftier goal before man than the bestial goals and if he spends the intelligence and skills that Allah has bestowed upon him to find ways and means to attain and fulfil only his bestial desires, then although he can surely become a very superior animal but cannot become a loftier human being.

Man is compelled to earn his livelihood; if he does not earn he dies due to hunger. To safeguard himself from the vagaries of nature he is compelled to build a house to live in, to clothe himself, and acquire all other means of protection; if he does not do so, he perishes. Similarly, he is compelled to safeguard himself from his enemies, and if he slacks in his efforts he will land himself into trouble and disgrace. However, attainment of these necessities is not the objective; these are the means to reach that loftier goal which should be the real aim of man's life. Hence, a true human being is the one who fulfils his personal rights and necessities just to enable himself to fulfil the rights and duties pertaining to Allah, his family, his city, his community, his country and other human beings which are obligated upon him by the universe and the Creator of the universe. The real criterion of humanity is to understand and perform to the fullest extent these rights and duties. The reason for mandating on man to fulfil all his personal rights is that he is responsible to fulfil not only his rights but also the rights of others, and if he does not fulfil his rights, he will be unable to fulfil the rights of others too.

When this criterion of humanity is true in respect of individuals, then there is no reason why it should not be equally true in respect of groups of people. Formation of groups does not result in decrease or increase in the human nature. Therefore, the criterion for the collective nobility of the human beings should be identical to the individual nobility. When in our sight a human being, whose aim in life is nothing but to cherish his body and serve his sensual desires, is no better than an intelligent animal, then surely

that group of human beings is not eligible to be regarded more than comprising of civilized animals whose sphere of activities is confined to its own progress, success, prosperity, peace and tranquility and is not concerned with the progress and prosperity of humanity at large. If a person is seen very alert and active in dousing the flames engulfing his house, safeguarding his rights and defending his property, wealth and honour, but does not move an inch even when he notices another house burning, sees the rights of others being usurped, and the property, wealth and honour of others being obliterated and looted, we hesitate to call him even a human being let alone consider him a better or a good human being. Similarly, how can we consider a group of people or a nation to be the best or at least a noble nation or group which is always ready to do everything to safeguard its homes, protect itself and eradicate evil and mischief from it, but when other nations or groups of people are being annihilated by unruly activities of evil forces and their moral, spiritual and material life is being destroyed, it refuses to help them out to regain their freedom and prosperity. As individuals are obligated upon to fulfil not only their own rights but also the rights of fellow human beings and their Creator, Allah, so also a nation is obligated upon to fulfil the rights of its Creator and human brotherhood at large, and it cannot be entitled to be called a noble nation unless it strives hard (jihad) to fulfil these rights with its tongue, heart and soul, wealth and blood. Safeguarding its freedom, defending its sovereignty and protecting itself from the domination of evil, is the first and the foremost duty of a nation. But this is not the only duty fulfilment of which should make it contented; its real duty is also that it should strive with all its might for the emancipation and freedom of the entire humanity, remove all the obstacles which are hindering the moral, spiritual and material growth and progress of the humanity, and continuously wage war against persecution,

oppression, evil, tyranny and mischief as long as these evil forces exist in the world.

## LOFTY ISLAMIC TEACHINGS CONCERNING COLLECTIVE DUTIES

It is a tragedy that the narrow-minded thinkers and intellectuals of the world have never tried to understand this lofty criterion of collective nobility and this lofty goal of collective life; if anyone has tried to do so, his vision has not reached very far. The intellects of these people when they talk about collective duties get narrowed down when it comes to the wider vision of humanity at large, and they limit the collective duties within the confines of the sphere of nationalism or patriotism and lay the foundation for that nationalism or patriotism which, after a little modification, takes the shape of national and patriotic bias. This narrow-mindedness is actually responsible for that unnatural division of humanity under which those who belong to a particular race, or speak a particular language, or belong to a particular nationality exclude the other human beings, other than themselves, from the sphere of humanity, and leave alone understanding and fulfilling their rights, they do not even consider obliterating them as against morality and nobility.

The Holy Quran by its statement, أُخْرِجْتُ لِلنَّاسِ ("evolved for mankind"), has abrogated this unnatural division. By presenting this lofty criterion of collective nobility, the Holy Quran has guided the Muslim community towards that lofty goal of world-wide service to humanity which is above all discriminations and prejudices. It says that for the performance of this duty conscientiously by a truth loving nation, the field of nationality is very narrow; it cannot even bear the confinement of a race, or a language, or a country. Fixation of limits and boundaries on land and seas and divisions of courses and pathways has no meaning for it that the distinction of Asia and Europe or East and West

could become an impediment in performance of its duty. In its sight all human beings – all the sons and daughters of Adam – are equal, and hence to serve them all, i.e. enjoining all of them what is good and forbidding all of them from evil is its duty. The Quran has presented this teaching in different and effective styles, and by breaking the spell of narrow-mindedness has opened up broader world-wide roads of duty conscientiousness; hence it is stated in another place:

وَكَذَلِكَ جَعَلْنَاكُمْ أُمَّةً وَسَطًا لِتَكُونُوا شُهَدَاءَ عَلَى النَّاسِ وَيَكُونَ الرَّسُولُ عَلَيْكُمْ شَهِيدًا  
(البقرة: 143)

*"Thus have We made of you an 'Ummat' (nation) justly balanced that you might be witnesses over the nations, and the Messenger a witness over yourselves."*

*(The Quran, 2:143)*

This has been further clarified in Sura Hajj (Chapter 22) thus:

وَجَاهِدُوا فِي اللَّهِ حَقَّ جِهَادِهِ هُوَ اجْتَبَاكُمْ وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ مِلَّةَ أَبِيكُمْ إِبْرَاهِيمَ هُوَ سَمَّاكُمُ الْمُسْلِمِينَ مِنْ قَبْلُ وَفِي هَذَا لِيَكُونَ الرَّسُولُ شَهِيدًا عَلَيْكُمْ وَتَكُونُوا شُهَدَاءَ عَلَى النَّاسِ فَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ وَاعْتَصِمُوا بِاللَّهِ  
(الحج: 78)

*"And strive in the Cause of Allah as you ought to strive (with sincerity and under discipline); He has chosen you, and has imposed no difficulties on you in religion; it is the religion of your father Abraham. It is He Who has named you Muslims, both before and in this (Revelation); that the Messenger may be a witness for you, and you be witnesses for mankind! So establish regular prayer, give zakat and hold fast to Allah!"*  
*(The Quran, 22:78)*

If you read conjointly the aforesaid two Verses, which explain one another, here also the same world-wide service to humanity has been described as the purpose and goal of

Muslims. It is stated that you are the best of people who have been established on an equitable and middle path away from the extremes of extravagance and deficiency; you have been chosen for the special task of bearing witness in the world to the Truth by your speech and actions, so that through your speech and actions in every aspect of human life the world could come to know what the truth is, what probity and honesty is, and know the meaning of justice and kindness. This bearing witness to the Truth is the purpose of your life and because of this you have been given the name of Muslim (i.e. Allah's obedient group). After this, it is stated that there are no restrictions in this religion, and that its circumference has been kept so wide that the confinements of race, colour, language, nationalism and patriotism cannot stop its blessings and benefits from spreading far and wide. Here, there are no restrictions of untouchability or Varnashrama<sup>1</sup> no prominence or particularity is given for the lost sheep of Israel or the wandering camels of House of Ismail. Every human being, irrespective of his race, nationality or country, who accepts the principles of Islam, can join this religion on equal terms. Similarly, it is stated that the sphere of the duty that has been assigned to you is not limited to a particular country or nation; rather you have to serve and stand up as a witness of the Truth for the entire humanity.

This subject has been explained in yet another manner:

الَّذِينَ إِنْ مَكَّنَّاهُمْ فِي الْأَرْضِ أَقَامُوا الصَّلَاةَ وَآتَوُا الزَّكَاةَ وَأَمَرُوا  
بِالْمَعْرُوفِ وَنَهَوْا عَنِ الْمُنْكَرِ  
(41: 13)

*"(They are) those who, if We establish them in the land, establish regular prayer and give Zakat, enjoin the right and forbid the wrong."*  
(The Quran, 22:41)

<sup>1</sup> The four Hindu Castes, viz., Brahman, Kshatriya, Vaisya, and Sudra.  
[Translator]



Here instead of النَّاسِ *"the people,"* the word الْأَرْضِ *"the land"* has been used, and the benefits of the power and strength of Muslims has been described that under them servitude to Allah will thrive, they will propagate the good and obliterate the bad and the evil. From this also it is the intention to describe that the task of the Muslims is not confined to just Arabia or Persia, or just Asia or the East; it is meant for the entire world. They have to reach every nook and corner of the world; with the standard of virtue and the Truth flying high in their hands, they have to chase the armies of evil in every mountain, every desert, every forest, every sea and every piece of land of the world, and if there were to remain even a small corner of the world where evil is in existence, they have to reach there and establish the Truth after obliterating the evil. Allah has no special relationship with any particular country or race. He is the Creator of His every creature and keeps unbiased relationship of creation with all His creatures. Therefore, He is not displeased when evil, tyranny and mischief spread only in a particular country or nation, but he is equally displeased when there is mischief in any part of the earth. Therefore, in the Holy Quran, words like فساد في العرب *"mischief in Arabia"* or فتنه في العجم *"mischief in Persia"* have not been used, rather the word *"earth"* has been used everywhere — تَكُنْ فِتْنَةً فِي الْأَرْضِ / يَسْعَوْنَ فِي الْأَرْضِ فَسَادًا / لَفَسَدَتِ الْأَرْضُ — Hence, Allah does not confine the services of His army of Truth, i.e. the Muslim community to a particular race or nationality; rather He makes His blessing universal to cover every human being living on the earth.

### THE REAL NATURE OF "ENJOINING THE RIGHT AND FORBIDDING THE WRONG"

From the foregoing discussion, it is clear that the reason for the Muslims to be خَيْرَ أُمَّةٍ (*"the best of people"*) is that they are not raised to serve themselves, but serving the

entire humanity is the purpose of their existence; their eminence is concealed in أُخْرِجَتْ لِلنَّاسِ ("evolved for mankind"). They are not raised to serve nationalism or patriotism; rather it is the very nature of Islam that they live to be servants of the entire humanity.

Now let us see what type of service is that real service which has been described by the comprehensive words of أَمَرَ بِالْمَعْرُوفِ وَنَهَى عَنِ الْمُنْكَرِ ("enjoining the right and forbidding the wrong") and what its real nature is. The meaning of مَعْرُوفٍ (*Ma'roof*) as given in the dictionary is that thing which is well-known, and terminologically speaking it means every such action which a sound, healthy and truth-loving mind would be familiar with, whose excellence is recognized and understood by the true nature of man, and looking at it every man could testify from the heart that this is really a virtuous act. The opposite word for it is مُنْكَرٍ (*Munkar*) which is used in Arabic lexicon to mean unknown and unfamiliar things, and terminologically it means every such action which the true nature of man dislikes, which a healthy and truth-loving mind considers bad and evil, and which common man generally dislikes. Honesty, truthfulness, piety, duty conscientiousness, helping the weak, showing mercy to afflicted persons, helping the oppressed and the poor, establishment of justice and equity, understanding and fulfilling one's own rights, the rights of Allah and the rights of fellow human beings, and many other such virtuous deeds come under *Ma'roof* and acting accordingly and exhorting others to act according to them is called "*enjoining the right.*" On the contrary, dishonesty, lying, falsehood, persecution, oppression, mischief, injustice, going beyond one's rights, usurping the rights of others, helping falsehood and untruth, suppression of the Truth, oppressing the poor and the weak, and all similar sinister, inhumane, unnatural and insensitive acts and deeds are *Munkar* and desisting from them and

forbidding others to desist from is called *“forbidding the wrong.”*

However, becoming pious and virtuous and desisting from evil and wrong has been given precedence over enjoining others to become pious and forbidding them from evil and wrong, as can be gathered from the fact that أَقَامُوا الصَّلَاةَ وَأَتَوْا الزَّكَاةَ (*“establish regular prayer and give Zakat”*) has been mentioned before وَأَمَرُوا بِالْمَعْرُوفِ وَنَهَوْا عَنِ الْمُنْكَرِ (*“enjoin the right and forbid the wrong”*) and it is a fact that before reforming others, it is essential to reform ourselves. However, as it is more virtuous to feed others than filling up one’s own belly, so also the rank of propagating the good and forbidding the wrong is greater than becoming pious and abandoning the wrong, because one is just serving the self and the other is serving fellow human beings; one is in the rank of just humanity and the other in the rank of complete humanity. It is a very good quality and a characteristic of a noble person to act according to the good and desist from the wrong, but man cannot achieve the utmost degree of nobility and the loftiest rank of reverence unless he does not strive to make other people also pious and stop them from doing evil deeds.

It is man’s nature that if he does not like a thing he discards it; if this disliking turns to aversion, he cannot bear to look at it or hear about it. If this aversion further turns into enmity he tries to eradicate it, and a notch above enmity if it creates in him extreme feelings of grudge and hostility, he makes its eradication the mission of his life and does not rest till he completely obliterates it from the face of the earth. Similarly, when he likes a thing he adopts it. When he loves a thing, he feels elated to see and hear about it. When he reaches the stage of infatuation beyond love, he likes to see its beauty in every particle of the world and does not want to waste even a single moment of his life in seeing others, hearing about others, and even visualizing

others than it. And again when this infatuation grows and reaches the stage of devotion, then he bequests his entire life to serve it, and sacrifices for it his wealth and life, all his comforts, his honour, and in fact everything that he possesses. Hence, *أمر بالمعروف* ("enjoining the right") means extreme love and a mad infatuation for virtue, and *نهي عن المنكر* ("forbidding the wrong") has been interpreted as extreme animosity and enmity towards evil. One who enjoins the right is not just virtuous, but he is a passionate lover and devotee of virtue, and one who forbids the wrong not only desists from the evil and the wrong, but he is its enemy and will always be thirsting for its blood.

Another sentiment on which the foundation of *أمر بالمعروف* and *نهي عن المنكر* ("enjoining the right and forbidding the wrong") has been established is love for humanity and feeling of compassion towards fellow human beings. A selfish person, when Allah grants him affluence or a boon, wants to confine it to himself and does not want to share it with others. Similarly, when he lands into trouble, he tries his utmost to ward it off. But noticing others in trouble, he does not volunteer to help them. On the contrary, one who is compassionate and loves humanity, shares his comforts with others, apportions his affluence with all, and noticing others in pain and misery becomes as anxious and concerned as he does for himself. We think these acts of selfishness and sympathy to be confined only to the material and sensual world. In fact, in the world of ethics and spirituality these qualities are more sternly confronted, and since the material good and bad of man is linked to his ethical and spiritual life, the real confrontation of these qualities takes place in this world itself. A true lover of humanity and sympathizer of human beings cannot remain contented when he himself becomes virtuous; he is not contented unless and until he rescues the other members of his fraternity from the clutches of evil and takes them along

the path of the Truth. His soul becomes restless when he sees his brother in the grip of evil. When he notices a person denude of the apparel of virtue, he gets as agitated as a mother gets agitated seeing her naked child cringing from cold. When he comes to know about the goodness of a thing, he wants every human being to benefit from it and when he comprehends badness of a thing, he does not want any other person to be in its clutches. He feels that if a thing is good it is not good for him alone; rather it is good for everyone and it is his duty to convey and transmit it to every son and daughter of Adam. If another thing is bad, he feels that it is not bad for him alone, but is equally bad for others too and it is his duty to rescue other people from it. To be contented with one's own goodness and prosperity and not to desire for the goodness and welfare of others, and similarly to be contented with eradication of evil from self and try not to rescue others from it, is the worst kind of selfishness and egotism.

Above all, this is not just selfishness, rather it is suicide. Man is a civic being. He cannot live away from the community. His goodness and badness are all collective. If the community is bad, he cannot escape from its badness. If an epidemic spreads in a city because of widespread filth in it, the polluted air will not kill only the person in whose house the filth is found; rather even the person living in another part of the city who keeps himself clean, bathes daily, keeps his house spotless and who takes all precautionary measures will also be eventually affected by the epidemic. Similarly, if the general morality of a city has got vitiated and its residents are generally wicked and sinful, the resultant destruction which descends on it will not be confined only to the wicked and the sinful, but the few good, noble, pious and honourable people who reside therein would also be in its range. The Holy Quran says:

وَاتَّقُوا فِتْنَةً لَا تُصِيبَنَّ الَّذِينَ ظَلَمُوا مِنْكُمْ خَاصَّةً وَاعْلَمُوا أَنَّ اللَّهَ شَدِيدُ

(الأنفال: 25)

الْعِقَابِ ﴿٢٥﴾

*"And fear the trial which affects not in particular (only) those of you who do wrong; and know that Allah is strict in punishment."*  
(The Quran, 8:25)

The Prophet of Allah has further clarified this aspect of the matter in one of his Sayings thus:

*"Allah will not punish the common people because of the actions of the elite, unless even after seeing the wrong being committed before their eyes, they do not forbid it although they have the power to forbid it. When they do so, then Allah punishes all – the common and the elite."*

(Musnad-e-Ahmed)

Hence, **أَمْرٌ بِالْمَعْرُوفِ وَنَهْيٌ عَنِ الْمُنْكَرِ** ("enjoining the right and forbidding the wrong") is not only service to others, but also a service to self, and in fact it can also be named as the judicious tact of extracting self-prosperity from out of the collective prosperity.

## **STATUS OF "ENJOINING THE RIGHT AND FORBIDDING THE WRONG" IN THE SOCIAL LIFE**

This is the very thing (i.e. *enjoining the right and forbidding the wrong*) on which the welfare and prosperity of a society is based and which protects a nation and a society from getting annihilated; without this, human society cannot be safeguarded. As long as this spirit is present in a nation and its individuals make proper arrangements to enjoin the right and forbid the wrong to one another, or at least a group is there amongst that nation which discharges this duty with alacrity and alertness then that nation cannot be annihilated. But if this spirit of enjoining the good and forbidding the wrong exits from it, and there remains no such group to accomplish this duty, then slowly Satan begins to dominate it and ultimately it falls into such a deep pit of ethical and spiritual destruction

that it can never come out of it. This fact has been described by the Holy Quran thus:

فَلَوْلَا كَانَ مِنَ الْقُرُونِ مِنْ قَبْلِكُمْ أُولُوا بَقِيَّةٍ يَنْهَوْنَ عَنِ الْفَسَادِ فِي الْأَرْضِ إِلَّا قَلِيلًا مِمَّنْ أَنْجَيْنَا مِنْهُمْ ۚ وَاتَّبَعَ الَّذِينَ ظَلَمُوا مَا أُتْرِفُوا فِيهِ وَكَانُوا مُجْرِمِينَ ﴿١١٦﴾ وَمَا كَانَ رَبُّكَ لِيُظْلِكَ الْقُرَىٰ يَظْلِمُونَ ۚ وَأَهْلَهَا مُضِلُّونَ ﴿١١٧﴾

(116-117:11)

*"If only there had been of the generation before you, men of righteousness who prohibited men from mischief in the earth (but there were none) except a few among them whom We saved (from harm)? But the wrong-doers pursued the enjoyment of the good things of life which were given them, and persisted in sin. Nor would your Lord be the One to destroy the towns unjustly while their people are righteous."* (The Quran, 11: 116-117)

In another place, the reason for the Children of Israel getting under the curse has been described thus:

لُعِنَ الَّذِينَ كَفَرُوا مِنْ بَنِي إِسْرَءِيلَ عَلَى لِسَانِ دَاوُدَ وَعِيسَى ابْنِ مَرْيَمَ ذَلِكَ بِمَا عَصَوْا وَكَانُوا يَعْتَدُونَ ﴿٧٨﴾ كَانُوا لَا يَتَنَاهَوْنَ عَنْ مُنْكَرٍ فَعَلُوهُ لَبِئْسَ مَا كَانُوا يَفْعَلُونَ ﴿٧٩﴾

(المائدة: 78-79)

*"Curses were pronounced on those among the Children of Israel who rejected Faith, by the tongue of David and of Jesus the son of Mary; because they disobeyed and persisted in Excesses. Nor did they forbid one another the iniquities which they committed; evil indeed were the deeds which they did."* (The Quran, 11:78-79)

In the purport of this Verse, all the Sayings of Prophet Muhammad which have been quoted, with some small variation, by Imam Ahmed, Tirmizi, Abu Dawood and Ibn-e-Maaja, say that the very first defect which developed in the Children of Israel was disappearance of aversion towards evil from their hearts and in its place that false tolerant attitude took root which tolerates the evil in the beginning and later encourages man himself to get involved

in it. The Saying of the Prophet of Allah in this regard as reported in Tirmizi is as follows:

*It is narrated by Hazrat Abdullah ibn Mas'ud that the Prophet of Allah (peace be upon him) said: "The first defect that permeated the Children of Israel was that when a person used to meet another person he would tell him: 'O so-and-so, fear Allah, and abandon what you are doing, for it is not lawful for you.' But when he used to meet him the next day, nothing prevented him from eating with him, drinking with him and sitting with him. When they began doing so, Allah cast in their hearts evil of one another. He then recited (the Verses): "Curses were pronounced on those among the Children of Israel who rejected Faith, by the tongue of David and of Jesus the son of Mary"...up to "wrongdoers".<sup>1</sup> Thus far, the Prophet was in a leaning position while he was speaking. Then suddenly he adopted a sitting position and said vehemently: "I swear by Allah in Whose hands is my life, you must enjoin what is good and forbid what is wrong, seize the hand of the wrongdoer, bend him towards the Truth, and restrict him to what is right; otherwise, Allah will cast in your hearts also evil of one another and then curse you too as he had cursed them."*

We have to correlate this example with the entire world. As the welfare, prosperity and salvation of a nation depends entirely on the active spirit of enjoining the good and forbidding the wrong, similarly the prosperity, welfare and salvation of the entire world depends on this. There should be at least one group in the world which could rein

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<sup>1</sup> The complete Verses are as follows: "Curses were pronounced on those among the Children of Israel who rejected Faith, by the tongue of David and of Jesus the son of Mary; because they disobeyed and persisted in Excesses. Nor did they forbid one another the iniquities which they committed; evil indeed were the deeds which they did. You see many of them turning in friendship to the Unbelievers. Evil indeed are (the works) which their souls have sent forward before them (with the result), that Allah's wrath is on them, and in torment will they abide. If only they had believed in Allah, in the Prophet, and in what has been revealed to him, never would they have taken them for friends and protectors, but most of them are rebellious wrong-doers." (The Quran, 5:78-81) [Translator]



in the wrong-doers, forbid the wrong, enjoin the good, be a witness of the Truth on behalf of Allah, look after the people, control the unruly, establish justice and never allow the evil to raise its head. To safeguard the creation of Allah from overall annihilation and safeguard Allah's earth from evil, mischief, persecution and oppression, it is essential to have such a group. Allah instructs in the Holy Quran:

وَلْتَكُنْ مِنْكُمْ أُمَّةٌ يَدْعُونَ إِلَى الْخَيْرِ وَيَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ ۚ وَأُولَٰئِكَ هُمُ الْمُفْلِحُونَ ﴿١٠٤﴾

(ال عمران: 104)

*"Let there arise out of you a band of people inviting to all that is good, enjoining what is right and forbidding what is wrong.*

*(The Quran, 3:104)*

Hence, the essentiality of enjoining the right and forbidding the wrong is not just that by its nature it is a good thing and is a very chaste passion, but, in reality, it is the best and indispensable method to keep the human civilization protected from mischief, and is a service which Allah has entrusted to an international group to establish peace in the world, to convert the world into a large habitat suitable for the habitation of noble and pious people, and to elevate the human beings from the lower ranks of bestiality to the upper ranks of ideal humanity; and there could be no other better service to humanity than this.

## **DIFFERENCE BETWEEN "ENJOINING THE RIGHT" AND "FORBIDDING THE WRONG"**

This universal service to humanity which has been entrusted to the Muslim community is comprised of two segments – one is *"enjoining the right"* and the other is *"forbidding the wrong."* Although the purpose of both is one, i.e. to help a person to remain a human being, but their stages are different and, therefore, there is difference in their methodology too. To understand better further discussions in this regard, it is necessary to know this difference first.

In the science of ethics, the duties of man have been divided into two segments. One is comprised of those duties which can be demanded to be performed. The second is those duties performance or nonperformance of which are left to one's choice. To become a good member of the society, the very least duty that is demanded of man is that he should desist from committing bad deeds, should not usurp the rights of others, should not oppress others, should not disturb the peace and tranquility of others, and desist from all such acts which are detrimental to him and to the society. Every society demands performance of these duties from its each and every member, and if anyone refuses to perform them, it becomes incumbent upon it to force him to do so.

The other kinds of duties are those that pertain to higher ethical values, performance of which makes a person a very noble and high ranking member of the society. For example: Recognizing and fulfilling the rights of Allah and his servants; personally becoming virtuous and trying to make others virtuous; serving one's own family, community and other human beings; defending and safeguarding the Truth, etc. For the performance of these duties, complete development and maturation of human intellect is necessary. No person can perform them properly if he has not comprehended well their real nature, and his self has not gained such piety and chastity that automatically prompts him to perform these duties without any compulsion. Therefore, these duties are not compelled upon but are optional and it depends upon the choice of a person whether he wants to become a noble and high ranking human being or not, although the ethical system of a society should be such that all its members should have the natural inclination to reach this high ranking position in the society.

The difference between "*enjoining the right*" and "*forbidding the wrong*" is also based, more or less, on this

division. Bringing out man from the ranks of bestiality to the ranks of humanity and stopping him from becoming a harmful and non-beneficial member of the society is concerned with "*forbidding the wrong*." And rising him from the degree of a simple human being to the position of a complete human being and converting him into a beneficial and noble member of the society is concerned with "*enjoining the right*." Hence, "*enjoining the right*" has pre-eminence over "*forbidding the wrong*." But sequentially, "*forbidding the wrong*" comes first and "*enjoining the right*" comes later. It is similar to the objective of a farmer who wants to produce food grains. To achieve that objective he has to till the soil and make it soft before sowing the seeds. Similarly, the aim of Islam is to convert a simple human being into an eminent human being, and before sowing the seeds of *Ma'roof* (*the good*) in him, it is essential to clear off his nature from the *Munkar* (*the wrong*) and make its surface even. Islam invites everyone towards the *Ma'roof* (*the good*) and prepares him to adopt it by showing its good qualities. But *Munkar* (*the wrong*) is a veil which does not allow the vision of man to receive the rays of the *Ma'roof* (*the good*). Therefore, tearing out this veil and rubbing away its rust by every possible method is the first and the most essential strategy which has to be adopted in this regard. After this, if a person accepts the call of the *Ma'roof* then a major part of higher ethical values does not remain optional but becomes compulsory for him, because after reaching the pre-eminence rank of humanity, he cannot have those allowances which he had when he was in the rank of a mere human being. However, even after the removal of this rust and lifting up of this veil, if an eye cannot see the beauty of the *Ma'roof* and if a heart does not accept its rays, then Islam is contented with forbidding him from the *Munkar* and leaves his further progression towards *Ma'roof* to his conscience.

Another characteristic of this difference between "*enjoining the good*" and "*forbidding the wrong*" is based on the difference between the two characteristics of Islam itself. One characteristic of Islam is that it is just a Call towards piety, self-restraint and fear of God, and its other characteristic is that it is a Law from Allah for the entire world. When a person accepts Islam, these two characteristics conjoin for him, and all the clauses and provisions of calling towards Islam become clauses and provisions of the Law for him. However, in the event of him not accepting Islam, the Call remains separate and the Law remains separate. The purpose of the Call is to make man worthy of the office of vicegerency which Allah had bestowed on him while sending him on the earth and fulfil all those obligations and responsibilities which are appertained on him as the vicegerent of Allah on earth. The purpose of the Law is that if man does not perform the services appurtenant to the office of the vicegerency, then at least he should not resort to bloodshed which the angels had chided him of. If he does not want to be the "best of the creatures," at least he should not be the "worst of the creatures." If he does not illuminate the world with piety, self-restraint and fear of God, at least he should not destroy its peace and tranquility by his evil and mischief. The first thing depends on the inner light and natural capabilities, which apparently cannot be created by force. But the second thing is concerned with the fixation of limits and supervision, obedience to which cannot be assured from his evil and unruly nature by mere sermons and religious discourses; rather in certain circumstances use of force becomes essential to compel him to obey.

### **METHOD OF "*FORBIDDING THE WRONG*"**

Certain aspects of this subject-matter are in need of more explanation which we will explain in greater details at a later stage on its proper occasion. Here, the purpose is

just to show that Islam has prescribed only the method of propagation to invite non-Muslims to the Ma`roof. But there is no such restriction on forbidding the Munkar; rather it has prescribed different methods to deal with different kinds of Munkar.

To cleanse the filth of heart and mind, and impurity of thoughts and opinions, it has been instructed to make use of sermons and religious discourses:

أَدْعُ إِلَى سَبِيلِ رَبِّكَ بِالْحُكْمِ وَالْمَوْعِظَةِ الْحَسَنَةِ وَجَادِلْهُمْ بِالَّتِي هِيَ أَحْسَنُ

(النحل: 125)

*"Invite (all) to the Way of your Lord with wisdom and beautiful preaching; and argue with them in ways that are best and most gracious."* (The Quran, 16:125)

وَلَا تُجَادِلُوا أَهْلَ الْكِتَابِ إِلَّا بِالَّتِي هِيَ أَحْسَنُ إِلَّا الَّذِينَ ظَلَمُوا مِنْهُمْ

(البقرة: 46)

*"And dispute you not with the People of the Book, except in the best way, unless it be with those of them who do wrong."* (The Quran, 29:46)

(طه: 44)

فَقُولَ لَهُ قَوْلًا لَّيْسًا لَّعَلَّهُ يَتَذَكَّرُ أَوْ يَخْشَى ۝

*"Hence, speak to him mildly; perchance he may take warning or fear (Allah)."* (The Quran, 20:44)

As regards evil deeds and actions, it has been ordained to eradicate them with might and main. We have quoted above a tradition of the Prophet of Allah (peace be upon him) where he has instructed among other things: *"You must seize the hand of the wrong-doer, bend him towards the Truth."* Apart from this, there are many other Traditions where it has been ordained to use force to stop the Munkar. On one occasion, the Prophet ordered:

*"If any among you happens to see evil, he should try to change it with his hand; if he does not have the power to do so then with his tongue; and if he does not have even this power then (feel bad about it) in his heart and this is the least and the weakest degree of the Faith."* (Muslim)

In the aforesaid Traditions the word "hand" has not been used to mean just the physical hand; rather it has been used metaphorically to mean the power. Seizing the hand of the wrong-doer actually means that an environment should be created where he is unable to commit any evil and mischief. Similarly, to change the evil by hand means that you should use your power and strength to stop and annihilate the Munkar (the wrong) and replace it with the Ma'roof (the good). In another Tradition, the Prophet of Allah said:

*"Allah will not punish the common people because of the actions of the elite, unless even after seeing the wrong being committed before their eyes, they do not forbid it although they have the power to forbid it. When they do so, then Allah punishes all – the common people and the elite."*

(Musnad-e-Ahmed)

The Traditions of the Prophet of Allah explain the commands of Allah. Hence, from the aforesaid Traditions, the meaning of the Quranic command of "*forbidding the wrong*" is very clearly determined that it not only means stopping the wrong (Munkar) by tongue or pen or propagating against it, but it also means stopping it and eradicating its very existence from the world with the use of force whenever and wherever necessary. If the Muslims have the power to forbid the entire world from the wrong and force it to conform to the law of justice and truth, it becomes obligatory on them to use such power and not rest till this task is fully accomplished. However, if they do not possess such a power, then they should try to perform this duty as far as possible, and simultaneously should try to acquire more power and strength for the accomplishment of the task in its entirety.

## WAGING WAR AGAINST MISCHIEF AND PERSECUTION

To describe the second kind of *Munkar* ("*the wrong*") and to differentiate it from the first kind and make its

characteristics more clear, Allah has used the words “*mischief*” and “*persecution*” to describe it. Hence, in all those Verses where permission has been given to wage war against the Munkar or the necessity of waging war has been mentioned, or where it has been commanded to eradicate it with force, you will find these words “*mischief*” and “*persecution*” instead of “*Munkar*.” For example:

وَقَاتِلُوهُمْ حَتَّى لَا تَكُونَ فِتْنَةً  
(البقرة: 193)

“Fight them on until there is no more persecution.”

(The Quran, 2:193)

وَلَوْلَا دَفْعُ اللَّهِ النَّاسَ بَعْضَهُمُ بِبَعْضٍ لَفَسَدَتِ الْأَرْضُ  
(البقرة: 251)

“And had not Allah check one set of people by means of another, the earth would indeed be full of *mischief*.”

(The Quran, 2:251)

إِلَّا تَفْعَلُوا تَكُنْ فِتْنَةٌ فِي الْأَرْضِ وَفَسَادٌ كَبِيرٌ  
(الأنفال: 73)

“Unless you do this (protect each other), there would be tumult and oppression on earth, and great *mischief*.”

(The Quran, 8:73)

وَالْفِتْنَةُ أَشَدُّ مِنَ الْقَتْلِ  
(البقرة: 191)

“And persecution is worse than slaughter.”

(The Quran, 2:191)

مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا  
(المائدة: 32)

“If any one slew a person unless it be for murder or for spreading *mischief* in the land, it would be as if he slew the whole people.”

(The Quran, 5:32)

لَقَدْ ابْتَعَوْا الْفِتْنَةَ  
(التوبة: 48)

“Indeed they had plotted persecution before.”

(The Quran, 9:48)

كُلَّمَا رُزِقُوا إِلَى الْفِتْنَةِ أُرْكَسُوا فِيهَا  
(النساء: 91)

“Every time they find occasion for persecution, they get involved in it.”

(The Quran, 4:91)

In all the aforesaid Verses, the very same Munkar (the wrong) has been interpreted as “*mischief*” and “*persecution*,” and actually of all the wrongs, mischief and persecution are such that they cannot be eradicated without the use of force.

## ANALYSIS OF “*PERSECUTION*”

Usually the meaning of mischief and persecution is understood to be that of a dispute cropping up between two groups resulting first in the use of foul language against one another and then the more energetic members of each group arming themselves with pieces of bricks and stones, or sticks, or swords, or guns come out to fight and smash heads of one another and commit enough bloodshed to cool down their anger. Although this kind of activity also comes under mischief and persecution, but under the Quranic terminology its meaning is not so narrow; rather many other ethical crimes also come under them. We need not search the details in other books; the Quran itself tells us the meaning it assigns to the terms “*mischief*” and “*persecution*.”

In Arabic lexicology the meaning of the word *فِتْنَة* which is the root word for *الْفِتْنَة* (*al-fitnah*), is to heat the gold to see if it is pure or alloyed. Based on this meaning, this word is used to describe throwing of a human being in a burning fire, as has been used in the Quran: *يَوْمَ هُمْ عَلَى النَّارِ يُفْتَنُونَ* (“*It is*) the day when they will be burnt on the Fire”<sup>1</sup>) and metaphorically it means all such things that put man to trial and test. Hence, wealth and possessions and the progeny have been described as “*fitnah*”: *وَاعْلَمُوا أَنَّمَا أَمْوَالُكُمْ وَأَوْلَادُكُمْ فِتْنَةٌ* (“*And know you that your possessions and your progeny are but a trial*”<sup>2</sup>), because these things put man on

<sup>1</sup> The Quran, 51:13.

<sup>2</sup> The Quran, 8:28.



a trial to see whether he likes them the most or the Truth. Similarly, comfort and misery have also been described as "*fitnah*": *وَنَبْلُوكُمْ بِالشَّرِّ وَالْخَيْرِ فِتْنَةً* ("And We test you by evil and by good by way of trial"<sup>1</sup>) as in both these situations man is put on trial. Upheavals of time, and the fickleness of human history have also been described as "*fitnah*" because through them the nations are tried and tested: *أَوَلَا يَرَوْنَ أَنَّهُمْ يُفْتَنُونَ فِي كُلِّ عَامٍ مَرَّةً أَوْ مَرَّتَيْنِ ثُمَّ لَا يَتُوبُونَ وَلَا هُمْ يَذْكُرُونَ* ("See they not that they are tried every year once or twice? Yet they turn not in repentance, and they take no heed"<sup>2</sup>). Burdening someone beyond his strength or capacity is also called "*fitnah*" because it is a test and trial of his power of endurance: *وَمِنْهُمْ مَن يَقُولُ ائْذِنْ لِي وَلَا تَفْتِنِي* ("Among them is (many) a man who says: 'Grant me exemption and draw me not into trial.'<sup>3</sup>).

From all these examples, it is evident that the real meaning of "*fitnah*" is test and trial, whether it is through the avarice for gains, or the longing of sensual pleasures and grant of all cherished things, or through fear of loss, affliction of misfortune and injury. If this trial is from Allah, then it is justified, because Allah is the Creator of man and he has the full right to test his servants, and the purpose of his taking the test is to elevate man to a loftier and better status. But if this trial is from human beings then it is oppression, because man has no right to do so, and when a man puts another man on trial then his purpose is to usurp his freedom of conscience, force him to be his servant and take him to the lowest level of ethical and spiritual baseness. In this latter meaning, the word "*fitnah*" is almost synonymous to the English word "*persecution*." But the range of the English word is not as wide as the word "*fitnah*."

<sup>1</sup> The Quran, 21:35.

<sup>2</sup> The Quran, 9:126.

<sup>3</sup> The Quran, 9:49.

Detailed and different meanings of the word “*fitnah*” as has been given in the Quran are as follows:

1. Oppressing the Weak, Usurping their Just Rights, Seizing their Homes, and hurting them:

ثُمَّ إِنَّ رَبَّكَ لِلَّذِينَ هَاجَرُوا مِنْ بَعْدِ مَا فُتِنُوا ثُمَّ جَاهَدُوا وَصَبَرُوا إِنَّ رَبَّكَ مِنْ  
بَعْدِهَا لَغَفُورٌ رَحِيمٌ ﴿١١٠﴾

“But verily, your Lord, to those who leave their homes after trials and persecutions, and who thereafter strive and fight for the Faith and patiently persevere (will grant them forgiveness).” (The Quran, 16:110)

يَسْأَلُونَكَ عَنِ الشَّهْرِ الْحَرَامِ قِتَالٍ فِيهِ قُلْ قِتَالٌ فِيهِ كَبِيرٌ وَصَدٌّ عَنْ  
سَبِيلِ اللَّهِ وَكُفْرٌ بِهِ وَالْمَسْجِدِ الْحَرَامِ وَإِخْرَاجُ أَهْلِهِ مِنْهُ أَكْبَرُ عِنْدَ اللَّهِ  
وَالْفِتْنَةُ أَكْبَرُ مِنَ الْقَتْلِ ﴿٢١٧﴾

“They ask thee concerning fighting in the Prohibited Month. Say: ‘Fighting therein is a grave (offence); but graver is it in the sight of Allah to prevent access to the path of Allah, to deny Him, to prevent access to the Sacred Mosque, and drive out its members; tumult and persecution are worse than slaughter.’” (The Quran, 2:217)

2. Oppressing the Truth with Force and Intimidation, and Preventing People from Accepting the Truth:

فَمَا آمَنَ لِمُوسَى إِلَّا ذُرِّيَّةٌ مِنْ قَوْمِهِ عَلَى خَوْفٍ مِنْ فِرْعَوْنَ وَمَلَئِهِمْ أَنْ  
يَفْتِنَهُمْ ﴿٨٣﴾

“But none believed in Moses except some children of his People, because of the fear of Pharaoh and his chiefs, lest they should persecute them.” (The Quran, 10:83)

3. Hindering Men from the Path of Allah:

This has been explained in detail in the previous chapter. In Verse 36 of Sura Anfaal (Chapter 8), describing first the crime of the Unbelievers that they hinder people from the path of Allah — إِنَّ الَّذِينَ كَفَرُوا يُنْفِقُونَ أَمْوَالَهُمْ لِيَصُدُّوا عَنْ سَبِيلِ اللَّهِ (“The Unbelievers spend their wealth to hinder (men)

from the path of Allah”) – and foretelling that they will eventually be subdued – ثُمَّ يُغْلَبُونَ (“At length, they will be overcome”) and then determining this act as an act of persecution (“*fitnah*”), it has been commanded in Verse 39 to wage war against them – وَقَاتِلُوهُمْ حَتَّى لَا تَكُونَ فِتْنَةً وَيَكُونَ الدِّينُ كُلُّهُ لِلَّهِ (“And fight them on until there is no more persecution, and religion becomes Allah’s in entirety”).

4. Misleading the People; Trying to Use Deceit, Temptation, Force, and Inducement against the Truth:

وَإِنْ كَادُوا لَيَفْتِنُوكَ عَنِ الذِّنِّ أَوْ حِينًا إِلَيْكَ لِيُفْتَرِيَ عَلَيْنَا غَيْرَةٌ وَإِذَا

لَا تَخَذُوكَ حَلِيلًا ﴿٧٣﴾ (النمل: 73)

“And their purpose was to tempt thee away from that which We had revealed unto thee, to substitute in Our name something quite different; (in that case), behold! They would certainly have made thee (their) friend!”

(The Quran, 17:73)

وَاحْذَرُهُمْ أَنْ يَفْتِنُوكَ عَنْ بَعْضِ مَا أَنْزَلَ اللَّهُ إِلَيْكَ... أَتَحْكُمُ الْجَاهِلِيَّةَ

يَبْغُونَ (المائدة: 49&50)

“Beware of them lest they beguile thee from any of that (teaching) which Allah has sent down to thee... Do they then seek after a judgment of (the Days of) Ignorance?”

(The Quran, 5: 49&50)

5. Waging War in favour of Untruth; Ganging up and Committing Slaughter, Bloodshed for Unlawful Motives:

وَلَوْ دَخَلَتْ عَلَيْهِمْ مِنْ أَقْطَارِهَا ثُمَّ سَبَلُوا الْفِتْنَةَ لَأَتَوْهَا وَمَا تَلَبَّثُوا فِيهَا إِلَّا

يَسِيرًا ﴿١٤﴾ (الأحزاب: 14)

“(In the Battle of Ahzab), if an entry had been effected to them from the sides of the (City), and they (i.e. the Hypocrites) had been incited to sedition, they would certainly have brought it to pass, with none but a brief delay!”

(The Quran, 33:14)

سَتَجِدُونَ آخَرِينَ يُرِيدُونَ أَنْ يَأْمَنُوكُمْ وَيَأْمَنُوا قَوْمَهُمْ كُلًّا رُدُّوا إِلَى  
الْفِتْنَةِ أُرْكَسُوا فِيهَا (النساء: 91)

"(Among these Hypocrites) you will find some others that wish to be secure from you as well as that of their people; every time they are sent back to temptation, they succumb thereto (i.e. they also join with those who incite the temptation)." (The Quran, 4:91)

#### 6. Domination and Persecution of Followers of the Truth by the Followers of Untruth:

إِلَّا تَفْعَلُوا تَكُنْ فِتْنَةٌ فِي الْأَرْضِ وَفَسَادٌ كَبِيرٌ (الأنفال: 73)

"If you do not help (the followers of Truth), there would be tumult and oppression on earth, and great mischief."

(The Quran, 8:73)

#### ANALYSIS OF "MISCHIEF"

Now let us study in which context and meaning the word "mischief" has been used in the Quran.

In Arabic lexicology "fasaad" means a thing becoming asymmetrical and corrupt; its opposite is rectitude and probity. Although according to the lexical meaning every action which is against justice and probity is "fasaad," but in the Quran it is usually applied to describe deterioration in the collective ethical values and corruption in the civic and political system of the society. For example, the Holy Quran accuses Pharaoh, the People of Aad, and the People of Samood of committing mischief:

أَلَمْ تَرَ كَيْفَ فَعَلَ رَبُّكَ بِعَادٍ ۖ إِرَمَ ذَاتِ الْعِمَادِ ۚ الَّتِي لَمْ يُخْلَقْ مِثْلُهَا فِي  
الْبِلَادِ ۚ وَثَمُودَ الَّذِينَ جَاءُوا الصَّخْرَ بِالْوَادِ ۖ وَفِرْعَوْنَ ذِي الْأَوْتَادِ ۚ  
الَّذِينَ ظَغَوْا فِي الْبِلَادِ ۚ فَاكْتُرُوا فِيهَا الْفُسَادَ (النجر: 12-6)

"Do you not see how your Lord dealt with (the people of) Aad of the (city of) Iram, with lofty pillars the like of which were not produced in (all) the land? And with (the people of) Samood, who cut out (huge) rocks in the valley? And

*with Pharaoh, lord of stakes? (All) these transgressed beyond bounds in the lands, and heaped therein mischief (on mischief)."* (The Quran, 89:6-12)

In various other places, the Quran has described their crimes based on which they have been declared as the mischievous people:

1. In respect of Pharaoh the Quran says that he was haughty and arrogant; he had established a system of racial discrimination amongst his people and used to divide them and rule, and also kill the weak without any justification:

إِنَّ فِرْعَوْنَ عَلَا فِي الْأَرْضِ وَجَعَلَ أَهْلَهَا شِيَعًا يَسْتَضِعُّ طَائِفَةً مِنْهُمْ يَدْخُلُ ابْنَتَاهُ هُمُ وَيَسْتَفْخِي نِسَاءَهُمْ إِنَّهُ كَانَ مِنَ الْمُفْسِدِينَ ﴿٤﴾ (القمر: 4)

*"Truly Pharaoh elated himself in the land and divided its people into sections, depressing a group among them; their sons he slew, but he kept alive their females; for he was indeed an evil-doer."* (The Quran, 28:4)

He used to forcibly prevent people from accepting the Truth; hence when the magicians accepted the Faith after seeing the miracle of Prophet Moses (peace be upon him), the Pharaoh said to them:

أَمِنْتُمْ لَهُ قَبْلَ أَنْ أَدْنِ لَكُمْ إِنَّهُ لَكَبِيرٌ كُذِّبَ الَّذِينَ عَلَّمَكُمِ السِّحْرَ فَلَا تَقْلَعُونَ أَيْدِيَكُمْ وَأَرْجُلَكُمْ مِنْ جِلَافٍ وَلَا وَصَلِيَّتُكُمْ فِي جُذُوعِ النَّخْلِ وَلَتَعْلَمُنَّ أَيُّنَا أَشَدُّ عَذَابًا وَأَبْقَى ﴿٧١﴾ (طه: 71)

*"(Pharaoh) said: 'Believe you in Him before I give you permission? Surely this must be your leader, who has taught you magic! Be sure I will cut off your hands and feet on opposite side, and I will have you crucified on trunks of palm trees; so shall you know for certain, which of us can give the more severe and the more lasting punishment."*

(The Quran, 20:71)

He had enslaved an entire community finding them weak and powerless; hence when he upbraided Prophet Moses (peace be upon him) for the favours he had conferred on him, Prophet Moses responded:

وَبَلَدِكَ نِعْمَةٌ مِّنْهَا عَلَىٰ أَنْ عَبَّدْتَ بَنِي إِسْرَءِيلَ ﴿٢٢﴾ (الشعراء: 22)

*"And this is the favour with which you do reproach me – that you have enslaved the Children of Israel!"*

(The Quran, 26:22)

Arrogance of power had made him declare himself to be the god of fellow human beings and rule the people on the basis of his might, although only justice and fair play and fear of God has the right to rule the people:

وَقَالَ فِرْعَوْنُ يَأْتِيهَا إِلَهَاءُ مَا عَلِمْتُ لَكُمْ مِنْ إِلَهِ غَيْرِي ..... وَاسْتَكَبَرَ هُوَ

وَجُنُودُهُ فِي الْأَرْضِ بِغَيْرِ الْحَقِّ وَظَنُّوا أَنَّهُم إِلَهَاتٌ لَا يَرْجِعُونَ ﴿٣٨﴾

(النقص: 38&39)

Pharaoh said: "O Chiefs! No god do I know for you but myself... And he was arrogant and insolent in the land beyond reason – he and his hosts – they thought that they would not have to return to us!" (The Quran, 28:38&39)

By corrupting the mental and ethical condition of his people, he had made them so ignominious that they readily agreed to his servitude.

فَاسْتَعَفَّ قَوْمَهُ فَأَطَاعُوهُ إِنَّهُمْ كَانُوا قَوْمًا فَاسِقِينَ ﴿٥٤﴾ (الزخرف: 54)

*"Thus did he make fools of his people, and they obeyed him; truly were they a people rebellious (against Allah)."*

(The Quran, 43:54)

His government had been established illegally and its laws were bad and wrong.

فَاتَّبَعُوا أَمْرَ فِرْعَوْنَ وَمَا أَمْرُ فِرْعَوْنَ بِرَشِيدٍ ﴿٩٧﴾ (مؤد: 97)

*"They followed the command of the Pharaoh, and the command of Pharaoh was not rightly guided."*

(The Quran, 11:97)

2. Similarly, the crime of the `Aad has been described to be that they used to obey tyrants and oppressors:

وَاتَّبَعُوا أَمْرَ كُلِّ جَبَّارٍ عَنِيدٍ ﴿٥٩﴾ (مؤد: 59)

*They followed the command of every powerful, obstinate transgressor."*

(The Quran, 11:59)

The people of the `Aad themselves were oppressors and tyrants and were not at all concerned with justice and fair play; hence Prophet Hud (peace be upon him) rebuking them says:

وَإِذَا بَطَشْتُمْ بَطَشْتُمْ جَبَّارِينَ ﴿١٣٠﴾ (الشعراء: 130)

*"When you strike you strike like tyrants."*

*(The Quran, 26:130)*

In the arrogance of their power and might they used to unlawfully subdue and rule the weak nations:

فَأَمَّا عَادٌ فَاسْتَكْبَرُوا فِي الْأَرْضِ بِغَيْرِ الْحَقِّ وَقَالُوا مَنْ أَشَدُّ مِنَّا قُوَّةً أَوَلَمْ يَرَوْا أَنَّ اللَّهَ الَّذِي خَلَقَهُمْ هُوَ أَشَدُّ مِنْهُمْ قُوَّةً ﴿١٥﴾ (هم سورة: 15)

*"The `Aad behaved arrogantly through the land, against (all) truth and reason, and said: 'Who is superior to us in strength?'"*  
*(The Quran, 41:15)*

3. The details that we get from the Quran about the mischievous activities of the People of Samood are that their rulers and chiefs were oppressors, sinners and wrongdoers, and they used to follow and obey these very chiefs and rulers. Hence Prophet Saleh (peace be upon him) admonishing them says:

وَلَا تَطِيعُوا أَمْرَ الْهَاسِرِينَ ﴿١٥١﴾ الَّذِينَ يُفْسِدُونَ فِي الْأَرْضِ وَلَا يُصْلِحُونَ ﴿١٥٢﴾

(الشعراء: 151-152)

*"And follow not the bidding of those who are extravagant, who make mischief in the land, and mend not (their ways)."*

*(The Quran, 26:151-152)*

They were so headstrong and unruly that they were ready to kill a virtuous and truthful person just because he used to forbid them from the wrong and enjoin them the right, and they had no compunction in adopting any lie and worse kind of deceit to commit this crime:

وَكَانَ فِي الْمَدِينَةِ تِسْعَةُ رَهْطٍ يُفْسِدُونَ فِي الْأَرْضِ وَلَا يُصْلِحُونَ ﴿٤٨﴾ قَالُوا  
تَقَاسَمُوا بِاللّٰهِ لَنُبَيِّتَنَّهُ وَأَهْلَهُ ثُمَّ لَنَقُولَنَّ لِوَلِيِّهِ مَا شَهِدْنَا مَهْلِكَ أَهْلِهِ وَإِنَّا  
لَصَادِقُونَ ﴿٤٩﴾

(النمل: 48-49)

*"There were in the City nine men, who made mischief in the land, and would not reform. They said: 'Swear a mutual oath by Allah that we shall make a secret night attack on him and his people, and that we shall then say to his heir (when he seeks vengeance): 'We were not present at the slaughter of the people, and we are positively telling the truth'."* (The Quran, 27:48-49)

4. In the Holy Quran, the People of the Lut have also been called mischievous and their mischief has been described as under:

إِنَّكُمْ لَتَأْتُونَ الْفَاحِشَةَ مَا سَبَقَكُمْ بِهَا مِنْ أَحَدٍ مِنَ الْعَالَمِينَ ﴿٢٨﴾ أَيْنُكُمْ  
لَتَأْتُونَ الرِّجَالَ وَتَقَاطَعُونَ السَّبِيلَ وَتَأْتُونَ فِي نَادِيَكُمُ الْمُنْكَرَ

(النكبات: 28-29)

*"You do commit lewdness, such as no people in Creation (ever) committed before you. Do you indeed approach men, and cut off the highway? And practice wickedness (even) in your councils?"* (The Quran, 29:28-29)

The mischief of these people was that they not only used to commit highway robberies on the main thoroughfares, but their unnatural sexual activity had become so common and their collective ethical values had gone so low that they used to perform this act openly in gatherings and councils, and there was no one to stop and forbid them.

5. The People of Madyan have also been called mischievous; Prophet Shu'aib (peace be upon him) advises them thus:

فَاَوْفُوا الْكَيْلَ وَالْيَمَانَ وَلَا تَبْغَسُوا النَّاسَ أَشْيَاءَهُمْ وَلَا تُفْسِدُوا فِي  
الْأَرْضِ بَعْدَ إِصْلَاحِهَا ذَلِكُمْ خَيْرٌ لَّكُمْ إِن كُنْتُمْ مُؤْمِنِينَ ﴿٥٠﴾ وَلَا تَقْعُدُوا



بِكُلِّ صِرَاطٍ تُوعِدُونَ وَتَصُدُّونَ عَنْ سَبِيلِ اللَّهِ مَنْ آمَنَ بِهِ وَتَبْغُونَهَا  
عِوَجًا (الأعراف: 85-86)

*"Give just measure and weight, nor withhold from the people the things that are their due; and do not mischief on the earth after it has been set in order; that will be best for you, if you have Faith. And squat not on every road, breathing threats, hindering from the path of Allah those who believe in Him, and seek to make it crooked."*

(The Quran, 7:85-86)

After admonishing thus when Prophet Shu'aib further advised them to be virtuous, they threatened him:

وَلَوْلَا رَهْطُكَ لَرَجَمْنَاكَ وَمَا أَنتَ عَلَيْنَا بِعَرِيٍّ ۝ (هود: 91)

*Were it not for your family, we should certainly have stoned you! For you have among us no great position."*

(The Quran, 11:91)

From the above, it is very clear that the mischief of the People of Madyan was that generally they were dishonest, deceitful and corrupt. Their dishonesty in their trade and commerce had increased tremendously. They used to commit robberies on the highways which passed through their land. They used to hinder honest people from the path of Allah, and they were so dead against the Truth that when a pious and good person started to admonish them for their evil deeds and invited them towards the good, they could not tolerate his presence amongst them and were even prepared to stone him to death.

6. Theft has also been interpreted as mischief. Hence, when the brothers of Prophet Joseph (peace be upon him) were accused of stealing the royal glass, they said:

قَالُوا لَقَدْ عَلِمْتُمْ مَآ جِئْنَا لِنُفْسِدَ فِي الْأَرْضِ وَمَا كُنَّا سِرَّافِينَ ۝ (يوسف: 73)

(يوسف: 73)

*"By Allah! Well you know that we came not to make mischief in the land, and we are no thieves!"*

(The Quran, 12:73)

7. The destruction which ensues by the territorial conquests and ambitions of the kings and the resultant ethical baseness in the conquered people has also been referred to as mischief in the Holy Quran. Hence, the Queen of Sheba on receiving a letter from Prophet Solomon (peace be upon him), says to her courtiers:

إِنَّ الْمُلُوكَ إِذَا دَخَلُوا قَرْيَةً أَفْسَدُوهَا وَجَعَلُوا أَعِزَّةَ أَهْلِهَا أَذِلَّةً ۚ وَكَذَلِكَ

يَفْعَلُونَ ﴿٣٤﴾

*"Kings, when they enter a country, despoil it, and make the noblest of its people its meanest thus do they behave."*

*(The Quran, 27:34)*

8. A comprehensive definition of mischief which has been given in the Holy Quran is ruination of those human relations and severing of bonds of kinship that, in fact, are the foundation of human civilization. Hence, the Quran says:

وَالَّذِينَ يَنْقُضُونَ عَهْدَ اللَّهِ مِنْ بَعْدِ مِيثَاقِهِ وَيَقْطَعُونَ مَا أَمَرَ اللَّهُ بِهِ أَنْ

يُوصَلَ وَيُفْسِدُونَ فِي الْأَرْضِ أُولَٰئِكَ لَهُمُ اللَّعْنَةُ وَلَهُمْ سُوءُ الدَّارِ ﴿٢٥﴾

*(المرء: 25)*

*"But those who break the Covenant of Allah, after having plighted their word threto, and cut asunder those things which Allah has commanded to be joined, and work mischief in the land, on them is the Curse; for them is the terrible Home."*

*(The Quran, 13:25)*

Usually exegetes take a very narrow meaning of the term *يُقْطَعُونَ مَا أَمَرَ اللَّهُ بِهِ أَنْ يُوصَلَ* ("cut asunder those things which Allah has commanded to be joined"), and take it to mean only cutting asunder the bonds of kinship. However, actually it means all those lawful relationships which are established between human beings on social and civil grounds; for example, relationships between relatives and kinfolks, relationships between husband and wife, relationships between friends and neighbours, relationships formed during the course of trade and commerce,

relationships struck on the basis of covenants, agreements and mutual trust, and relationships between different governments and countries. Since these relations are the foundation of the human civilization, and the peace and tranquillity of the world depends on their existence and continuance in a better form and their deterioration and severance lead to war and chaos in the world, Allah interprets their severance as mischief and has, therefore, cursed it.

9. That system of governance has also been interpreted as mischief which uses its power of governance to oppress, tyrannize and devastate people instead of using it for their welfare. Hence, the Holy Quran says:

وَإِذَا تَوَلَّى سَعَى فِي الْأَرْضِ لِيُفْسِدَ فِيهَا وَيُهْلِكَ الْحَرْثَ وَالنَّسْلَ وَاللَّهُ لَا يُحِبُّ  
الْفُسَادَ ﴿٢٠٥﴾ (البقرة: 205)

*"When he turns his back, his aim everywhere is to spread mischief through the earth and destroy crops and progeny; but Allah loves not mischief." (The Quran, 2:204-205)*

10. Hindering men from the Path of Allah - صُدُّ عَنْ سَبِيلِ اللَّهِ - which has been explained above, has also been described as mischief. Hence the Holy Quran says:

الَّذِينَ كَفَرُوا وَصَدُّوا عَنْ سَبِيلِ اللَّهِ زُجُجَتْ لَهُمْ عَذَابَاتُ فَوْقِ الْعَذَابِ بِمَا كَانُوا  
يُفْسِدُونَ ﴿٨٨﴾ (النحل: 88)

*"Those who reject Allah and hinder (men) from the Path of Allah – for them will We add Chastisement to Chastisement; for that they used to spread mischief." (The Quran, 16:88)*

11. In Sura Maidah (Chapter 5), the attributes of those who have been referred to as قَسَادًا فِي الْأَرْضِ ("they strive to spread mischief on earth") and in respect of whom Allah has declared لَا يُحِبُّ الْمُفْسِدِينَ ("Allah loves not those who do mischief") have been described as:

وَتَرَى كَثِيرًا مِنْهُمْ يُسَارِعُونَ فِي الْإِثْمِ وَالْعُدْوَانِ وَأَكْبِلُهُمُ الشُّحَّ (المائدة: 62)

*"Many of them do you see, racing each other in sin and transgression and their eating of things forbidden."*

*(The Quran, 5:62)*

وَالْقَيْنَا بَيْنَهُمُ الْعَدَاوَةَ وَالْبَغْضَاءَ إِلَى يَوْمِ الْقِيَامَةِ كُلَّمَا أَوْقَدُوا نَارًا لِلْحَرْبِ أَطْفَأَهَا اللَّهُ  
(المائدة: 64)

*"Amongst them We have placed enmity and hatred till the Day of Judgment. Every time they kindle the fire of war, Allah does extinguish it."*

*(The Quran, 5:64)*

From the above, it can be gathered that *الإنم* the "sin" which destroys the personal morality and ethics of man, and *العدوان* "transgression" i.e. the sins which effect others, and *أكل من حُرِّم* "eating of things forbidden" i.e. acquiring wealth of the people unlawfully by way of corruption and usury, and *أوقد نارا للحرب* "kindling the fire of war" for personal gains, are all acts of mischief.

## NECESSITY OF ALLAH'S RULE TO ERADICATE "MISCHIEF" AND "PERSECUTION"

From the above detailed explanation, the meanings of "mischief" and "persecution" in the language and terminology of the Holy Quran should be very clear. Now, if we again deeply ponder over all those evils which have been interpreted as mischief and persecution, it will be evident that these evils take root because of unrighteous, ungodly, mean and evil system of governance. It might be that such a system of government may not have anything to do with an evil taking root in the society, but the effects of the evil system of governance certainly would be responsible for its existence and becoming immune to the effects of reformation. First of all, such a government by its very nature is mischievous, because it is against the real aim and objective of a government. Further, its evil is not limited to any particular sphere; rather it becomes the very origin of every evil and a fountainhead of causes and

effects of mischief and persecution. Through it the path of Allah is hindered; the truth and the justice are crushed; the evildoers and oppressors draw their strength from it to carry out their evil activities; through it such laws are promulgated which destroy the ethical and moral values and social justice; it sows the seeds of hypocrisy and rift in the human society; because of it the fire of war and bloodshed is kindled in the world; because of it calamities descend on nations and countries; and in short, this is the thing whose power and strength, in some form or the other, becomes the resource for the existence and continuance of every evil and every act of evil.

Hence, for the eradication of evil and evildoers, Islam has devised a very effective plan: uproot such unrighteous and ungodly governments which are the cause and effect of all evils by undertaking collective and disciplined Jihad (striving), and if necessary and possible, by waging war against them, and establish in their place such a just system of government which is based on fear of Allah and the permanent codes of Law ordained by Allah which safeguard and serve the interests of the entire humanity instead of just serving the selfish interests of a few persons, or a community or a nation. The main purpose of such a government will be to eradicate evil and cause to flourish the good, and whose employees will be those who consider "enjoining the right and forbidding the wrong" as the only purpose of their life and who take over the reins of power not for their own aggrandizement but for the betterment of the humanity and achieving the pleasure and mercy of Allah.

If you read the Holy Quran carefully, in many places it has restrained people from obeying the tyrants and the oppressors and has strongly advised them not to destroy themselves by complying with the Untruth and surrendering to oppression and transgression. In one such place, it has ordained thus:

وَلَا تُطِيعُوا أَمْرَ الْمُتَكِبِينَ ۖ الَّذِينَ يُفْسِدُونَ فِي الْأَرْضِ وَلَا يُصْلِحُونَ ﴿١٥١﴾

(الشراء: 151-152)

*"And follow not bidding of those who are extravagant, who make mischief in the land, and mend not (their ways)."*

(The Quran, 26:151-152)

In another place, it has instructed:

وَلَا تُطِيعُوا مَنْ أَغْفَلْنَا قَلْبَهُ عَنْ ذِكْرِنَا وَاتَّبَعَ هَوَاهُ وَكَانَ أَمْرُهُ فُرُطًا ۖ ﴿٢٨﴾

(الكهف: 28)

*"Do not obey any whose heart We have permitted to neglect the remembrance of Us, one who follows his own desires, and his affair has become all excess."* (The Quran, 18:28)

In yet another place, the reason for the destruction of a nation has been given as:

وَاتَّبَعُوا أَمْرَ كُلِّ جَبَّارٍ عَنِيدٍ ۖ ﴿٦٠﴾ وَاتَّبَعُوا فِي هَذِهِ الدُّنْيَا لَعْنَةً وَيَوْمَ الْقِيَامَةِ

(هود: 59-60)

*"They followed the command of every powerful, obstinate transgressor, and they were pursued by a curse in this Life, and on the Day of Judgment."* (The Quran, 11:59-60)

In another place, it has been very clearly stated that a country is destroyed only when evildoers take its reins of power in their own hands:

وَإِذَا أَرَدْنَا أَنْ نُهْلِكَ قَرْيَةً أَمَرْنَا مُتْرَفِيهَا فَفَسَقُوا فِيهَا فَحَقَّ عَلَيْهَا الْقَوْلُ

(يٰٓأَيُّهَا إِسْرَافِيلُ: 16)

فَدَمَّرْنَاهَا تَدْمِيرًا ۖ ﴿١٧﴾

*"When We decide to destroy a town, We command those among them who are given the good things of this life (to be obedient), but they continue to transgress; so that the word is proved true against them; then We destroy them utterly."*

(The Quran, 17:16)

The reason for the above is very evident. In the social life, of all factors that affect the ethics and civic life of man, the strongest and the most effective factor is the government. If the system of government is wrong and its reins are in the hands of those people who, instead of using

the power to rule to reform and serve the people, use it for selfish motives and committing mischief and persecution, then in such a situation, it becomes extremely difficult for the good to flourish, any reformation to succeed and any kinds of ethical values to take root and bloom, because such a government, by its very nature, is the guardian of evil and mischief, and is not only evil by itself but uses all its power for the proliferation of evil.

Contrary to this, if the government is based on a correct and just constitution and its aim is to establish the system of justice and fair play, and those who run it are all pious and god-fearing people and who use their power not to achieve selfish or communal or national objectives but use it for the benefit and welfare of the entire humanity, then the effects of its reformatory power will not be confined to the sphere which is directly linked with the government, but every wing of the individual and collective life will readily feel and absorb its lofty and virtuous effects. The reformatory movement and activities in religion, economy, society, ethics, civilization, knowledge, thoughts and in short, in every facets of human life will succeed, and not only evil will be restrained but its very fountainsheads will also get dried up.

Hence, the only essential and useful method to eradicate mischief and persecution and cleanse the human life of the evil and the wrong is to obliterate all mischievous and oppressive governments and in their place establish such a government which, both in principle and in practice, is based on piety and pious practices.

## **MANDATE TO WAGE WAR**

This is the second lofty and great objective for which Allah has mandated his servants to take up arms. The first objective was to secure one's own power from obliteration, and this second objective is to use this secured power to obliterate mischief and persecution from the world and take

away the power of mischief and persecution from the oppressors and thus make them subservient to the good. This mandate has been given in the Holy Quran thus:

قَاتِلُوا الَّذِينَ لَا يُؤْمِنُونَ بِاللَّهِ وَلَا بِالْيَوْمِ الْآخِرِ وَلَا يُحَرِّمُونَ مَا حَرَّمَ اللَّهُ  
وَرَسُولُهُ وَلَا يَدِينُونَ دِينَ الْحَقِّ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ حَتَّى يُعْطُوا الْجِزْيَةَ  
عَنْ يَدٍ وَهُمْ صَاغِرُونَ ﴿٢٩﴾

(التوبة: 29)

*"Fight those who believe not in Allah nor the Last Day, nor hold that forbidden which has been forbidden by Allah and His Messenger, nor acknowledge the Religion of Truth, from among the People of the Book, until they pay the 'Jizya'<sup>1</sup> with willing submission, and feel themselves subdued."*  
(The Quran, 9:29)

In this Verse, the particularities mentioned of those against whom mandate has been given to wage war, are that they, although being the People of the Book, do not believe in Allah and the Last Day, nor do they restrain from those things which Allah and His Messenger have forbidden, nor do they acknowledge the Religion of Truth as their religion. The sequential order in which these crimes have been enumerated is not without any significance; rather if we ponder, the reason for this mandate of war against them can be very easily understood. Allah says that He sent them Books in which they had been guided towards the straight path of thoughts and practices, and in which a correct way of life had been devised for them. But they gave up those books; and according to their own whims and fancies, and based on conjecture and superstition, formed for themselves different religions and laws which were far away from the Truth and the straight path. Because of this deviation, on the one hand, their beliefs got corrupted and they had no firm belief in Allah and the Day of Judgment, and on the other, their deeds also got corrupted inasmuch as they no longer discriminated between the lawful and the

<sup>1</sup> Protective Tax levied on non-Muslims in an Islamic state. [Translator]



forbidden, and began to spread mischief and persecution which Allah and His Messengers had forbidden them:

Now that when Allah sent down for their guidance the very same Religion of Truth which they had lost, they refused to believe in it and have remained steadfast in their previous wrong-doings and misunderstandings, although if they had embraced it they would have once again become the followers of a sound Book, a true religion and a just Law and thus their thoughts and deeds could have been reformed and mischief and persecution could have been obliterated from the face of the earth. Now if they do not want to believe in the Religion of the Truth, they can be given the freedom to live according to their false beliefs and systems as a subdued people, but they can never be given the freedom to promulgate their false beliefs and laws and thus spread mischief and persecution on Allah's earth.

### OBJECTIVE OF WAGING WAR

The objective of this war has been very clearly defined in *حَتَّى يُغْطُوا الْجِزْيَةَ* (*until they pay the 'Jizya'*). However, if it had been stated *حَتَّى يُسْلِمُوا* (*until they become Muslims*) then the purpose of waging war would have been to make them Muslims by force. But *حَتَّى يُغْطُوا الْجِزْيَةَ* (*until they pay the 'Jizya'*) indicates that the last limit to wage war against them is their acceptance to pay Jizya, after which there cannot be any attack on their person and properties whether they accept Islam or not, as has been clarified by the author of *Badaye`*:

*"Allah the Almighty has fixed according to pay Jizya as the limit for licence to wage war. Hence, on reaching this limit when the licence ends, protection of the life and wealth of the "Zimmies" (Protectees) is also established."*

Hence, on this basis strict instructions have been issued regarding Zimmies<sup>1</sup> that their life, wealth, honour and prestige should be protected from every kind of attack. It has been made obligatory on Muslims to wage war and shed their own blood to protect them. Hence, Hazrat Ali says:

*"They have entered into the covenant of protection so that their properties and their blood could become as inviolable as our properties and our blood."*

Hazrat Umar says:

*"I command you to give due regard to the security and protection given in the name of Allah and His Prophet in such a way that you fulfil the covenant entered into with the Zimmies, wage war to protect them and not burden them with taxes and tribute which are beyond their means."*

The Prophet of Allah has enjoined so strictly about the inviolability of their life that he warns:

*"Anyone who kills a covenantee will not even get to smell the paradise although its smell reaches to a distance of 40 years."* (Reported in Baihaqui and narrated by Hazrat Abdullah bin Amar.)

In this connection, it is not correct to say that this inviolability of life and wealth is just because of the inviolability of the covenants, because this command is common to all Zimmies. The only means of acquiring status of a Zimmi (protectee) is not by way of entering into a formal covenant with an Islamic government; rather there is another way also where people surrender themselves unconditionally to the Islamic government and the government declares them to be Zimmies. Hence, Islamic jurists have clarified that if Muslims were to conquer a country by force and even if there were not to be any covenant with the people of that country, the conquered non-Muslims would be declared Zimmies and the leader of

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<sup>1</sup> Non-Muslim citizens of an Islamic state who enjoy government protection.  
[Translator]

the Muslims after levying Jiziya on them would take them under the protection and security of Allah and His Prophet. (Refer *Badaye' al-Sanaye'*, Vol. 7, p. 110 & 112)

From the above, it is evident that the mandate to wage war is not because of religious animosity; otherwise, the life and property of those against whom war had been ordained before their surrender would not have been made inviolable after their surrender, as it would have been very easy to vent one's religious animosity on surrendered people. Similarly, it is beyond reason to say that the purpose of waging war is just to collect the Jiziya, because in exchange for a few Dirhams every year, taking such a huge responsibility of providing security to the Zimmies by defending them from every enemy, cannot be due to avarice. One cannot understand that an Unbeliever after paying a small amount towards Jiziya could without any fear carry on its trade and commerce and enjoy his comforts and companionship of his family, whereas a Muslim is supposed to encounter all the discomforts of the battle field and endanger his life to protect the country, even though the Muslims have the power and might to collect the Jiziya from the Unbeliever and also force him to render military services. Hence, it is clearly understood from the withdrawal of permission to wage war on the payment of Jiziya and, after accepting the Jiziya, taking full responsibility of maintaining law and order upon themselves that the main objective of waging war is actually to prevent these people from committing acts of mischief and persecution and force them to remain peaceful and follow the law. The only purpose of the tax levied as Jiziya is that the Unbelievers should also share the expenditure incurred in defending and providing them security and that they could remain docile and subdued.

## REAL NATURE OF JIZIYA

Allamma (Dr.) Ibn Teemiyah explaining the meaning of *حَتَّى يُغْطُوا الْجِزْيَةَ* (*until they pay the 'Jizya'*) writes that it means that they should honour the covenant. As the statutes of all governments consider payment of taxes proof of allegiance and adherence to law, and not paying them is considered as rebellion and disloyalty, similarly continuous payment of Jiziyah is also proof of adherence to the covenant and non-payment means violation of the covenant. For this very reason, Jiziyah is levied only on able-bodied men who are fit to wage war. Women, children, the insane, the very old, the blind, the invalid, etc. are all exempted from this tax. In *Badaye' al-Sanaye'*, it is written:

*"Allah, the Almighty, has levied Jiziyah only on those people who are able to wage war, as is understood from the word قَاتِلُوا ("Fight") in the Verse ... قَاتِلُوا الَّذِينَ ("Fight those ...") Verse 9:29. For waging war, the requisite condition is that the opposite parties should have the ability to fight. Hence, those who do not have this ability are exempted both from the fighting and the Jiziyah."* (Vol. 7, p.111)

The words *عَنْ يَدٍ* in the aforesaid Verse 9:29 further explain this matter more clearly. Here *يَدٍ* means not the physical hand; rather it metaphorically means "consenting or willing submission." Hence, the meaning of *حَتَّى يُغْطُوا* means with consenting and willing submission they should pay the Jiziyah. If they do not have even that much liking for peace and that much inclination to follow the rules and regulations which could induce them to pay their due taxes willingly, and use of military power is always required to force them to pay their taxes, then the purpose of levying the Jiziyah, which is establishment of peace, and law and order, cannot be achieved nor the covenant of security could survive, for which willing obedience and submission is the essential condition.

The amount of Jiziya fixed is so small that its payment never becomes a burden. It has been sternly instructed to use easy, gentle and friendly ways to collect this tax. It is not permitted to afflict the Zimmies with punishment and imprisonment or to overburden them. Hence, there are a number of traditions and ordinances in this regard. Once, a huge amount of Jiziya was brought to Hazrat Umar. Sensing it to be unusually huge, he said: "I suspect that you must have ruined the people." The collectors of the Jiziya said: "By Allah, we have collected it very gently." He asked again: "Without any shackling and beating." They replied: "Yes, without any shackling and beating." Then only he permitted this amount to be taken into the government treasury.

Hazrat Ali, while appointing a person as a governor of 'Ukbura instructed him: "Do not be harsh in collecting the Jiziya that they are forced to sell off their donkeys or their cows or their clothes or other essential things; rather treat them with kindness."

Hazrat Hisham bin Hakeem bin Hizam, once happened to see in Palestine a few persons being made to stand in the open sun. He enquired: "What is their crime?" He was told: "They have been imprisoned for (non-payment of) Jiziya. Hazrat Hisham said: "I have heard Prophet of Allah saying that those who torture people in this world, Allah will torture them on the Day of Judgment." (Musnad-e-Ahmed)

From the above, it is evident that the Jiziya which is levied on the non-Muslims is not actually a punishment. Its only objective is to see that they submit to the rules and regulations and the constitution, willingly obey the laws of justice, and according to their means take part in the expenditure of the government which gives them an opportunity to lead a peaceful life, protects them from oppression and tyranny, distributes the rights and duties with justice, prevents the powerful in oppressing the weak,

saves the weak from being enslaved by the powerful, and bounds all unruly elements to adhere to the fixed boundaries of ethics and humanity. The words صَاغِرُونَ (*"and feel themselves subdued"*) in the above Verse further explain this meaning. Ibn Qayyim explains:

*"In this Verse صغار (Sighar - subjugation) means their agreeing to promulgation of ordinances as per the statute of Allah on them and agreeing to obey the laws of justice. Payment of Jiziya is sighar – the sign of their obedience and submission."*

Further, in the Holy Quran on different occasions; the way in which the objectives of war and its beneficial results have been described show us that the clear meaning of صَاغِرُونَ (*Saghiroon*) is the Unbelievers not being able to commit acts of mischief and persecution, they being rendered powerless from evil-mongering and wickedness, and they agreeing to obey the system of justice under the statute of Allah; this is their *sighar* (subjugation). In وَقَاتِلُوهُمْ وَفَاقِبَلُوهُمْ (And fight them on until there is no more persecution)<sup>1</sup> the objective of the war has been mentioned as the complete annihilation of persecution. The same objective has been described in حَتَّى تَضَعَ الْحَرْبُ أَوْزَارَهَا (Until the war lays down its burden)<sup>2</sup> which is to break the power and force of war and persecution. The same meaning is rendered in عَمَى اللَّهُ أَنْ يَكُفُّ بِأَمْرِ الَّذِينَ كَفَرُوا (Very soon Allah will restrain the fury (power to wage war) of the Unbelievers)<sup>3</sup>. In وَجَعَلَ كَلِمَةَ الَّذِينَ كَفَرُوا السُّفْلَى وَكَلِمَةَ اللَّهِ هِيَ الْعُلْيَا (Allah humbled to the depths the word of the Unbelievers, but the word of Allah is exalted to the heights)<sup>4</sup> the result of the war is described as humbling the

<sup>1</sup> The Quran, 2:193.

<sup>2</sup> The Quran, 47:4.

<sup>3</sup> The Quran, 4:84.

<sup>4</sup> The Quran, 9:40.

word of the Unbelievers and taking the word of Allah to the highest reaches. Hence, in fact, صَغَارَ "Sighar" in the Verse حَتَّى يُغْطُوا الْجِزْيَةَ عَنْ يَدٍ وَهُمْ صَاغِرُونَ means obliteration of persecution; eradication of mischief; end of the military might and power of the supporters of the Untruth; weakening of demonic power of the Unbelievers to the extent that it is rendered incapable of destroying the peace and tranquility of the world and hindering the ethical, spiritual and material progress of the people; abolition of the laws and statutes of the Unbelievers and in their place promulgation of those laws and statutes of Allah which clearly demarks, after abolishing every kind of demonic demarcations, the Truth and the Untruth, the evil and the piety, heralding glad-tidings of peace and freedom to every person except the oppressors and the evil-mongers.

Hence, it is clear that the mandate of waging war given in the aforesaid Verse is nothing but to take away the freedom of committing oppression and persecution from the world, and confirm on every facet of human life that real and humane freedom which is based on respecting the ethical boundaries and which is free from both undesirable restrictions and unwanted latitudes. The sword of Islam rises only against oppression, tyranny, mischief and persecution. Whether the victims of these Devilish acts are Muslims or non-Muslims, Islamic war goes on against any group who engages in these acts until it renounces them. However, the moment it repents from this great sin and adheres to the law of justice, at that very moment letting out its blood becomes inviolable, protection of its life, wealth and property becomes mandatory on the Muslims, and in the peaceful environment of the Islamic government, it will be given full freedom to pursue and develop, with all legal and lawful means, its wealth, its trade and industry, its sciences and ethics, its culture and civilization, in short every wing of its individual and social life, and it will be allowed to freely make use of all such resources which are

required to attain the loftier and loftier goals and ranks of humanity.

As regards the wide-ranging freedom that the Islamic Law gives to its Zimmies (non-Muslim protectees), its equivalent cannot be found in any other worldly laws; and naturally it cannot have any match because basically there is a difference in the viewpoint of these worldly laws and that difference is that these laws are based on the principle of caesarean doctrine. According to this doctrine the conquered people are considered the possessions of the conqueror, and the resources of life of the conquered people are considered like an estate. Using the estate for the benefits of the ruling class and prohibiting the conquered to derive any benefit out of it are considered their "natural right." Therefore, whatever may be the sincerity and magnanimity in promulgating these laws, the interests of the ruling class cannot be at par with the real interests of the conquered people, and inevitably the interests of the weak are sacrificed over the interests of the powerful.<sup>1</sup> As against this, the foundation of the Islamic Law has been laid down on the lofty and noble objective of human welfare. Under this, the real relationship between the conqueror and the conquered is like that of a servant and a master. The interest of the ruler is nothing but to put in every effort for the development and progress of the real and actual interests of his subjects. The real objective of giving him the authority to govern is that he should try to eradicate the evil which destroys the ethical, spiritual and material life of the people, and use everything in his power to propagate and popularize those virtuous deeds which help people attain the loftiest reaches of humanity. Hence,

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<sup>1</sup> Although in the modern-day democracy, the national minorities are theoretically considered to be partners in the ruling set up, but the country practically belongs to the majority; the minority is either decimated through slaughter and destruction, or by exerting every kind of pressure, it is forced to merge its singular identity with the majority.



a ruler in Islam, after subjecting his subjects to the ethical boundaries gives them every kind of leeway. He does not cause any impediment in the way of his subjects for the sake of his selfish motives or for the motives of his party or his community; rather he renders every help to them to become high-ranking human beings.

### **ISLAM AND IMPERIALISM<sup>1</sup>**

Unfortunately, today some world-conquering nations claim that they wage war in the world for the development and progress of civilization and humanity, welfare of the indigent and impoverished nations, and establishment of peace and tranquility. But contrary to this claim, they indeed rob the freedom of the weak nations, and instead of developing the civilization and the humanity, they are obliterating one by one the singularities of humanity and human nobility. Due to this, people might doubt would it be that the claim of Islam too is similar and that it just has the incantation of welfare and reformation on its tongue, but actually carries the sword of mischief and destruction in its hand. This doubt is further strengthened by the outward similarity of Islamic reformative Jihad and the Western imperialism in that the universal reformative Jihad in Islam is specific to Muslims and so also the Western imperialists consider propagation of their culture and civilization as the reserve of their community. Although by reading carefully the previous discussions, the room for this doubt to crop up will be very less, still it is better to clear whatever little doubt remains over instead of leaving it open for conjectures and doubts.

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<sup>1</sup> Merriam-Webster Dictionary defines imperialism as: "The policy, practice, or advocacy of extending the power and dominion of a nation especially by direct territorial acquisitions or by gaining indirect control over the political or economic life of other areas; *broadly*: the extension or imposition of power, authority, or influence." [Translator]

As everyone knows the foremost singularity of imperialism is that it means the rule of a particular community and people of a country over other weaker and poorer countries. British imperialism is specific to the people of England. In German imperialism, no other community or nation can share it except the Germans. In the Italian imperialism, everything belongs to the inhabitants of Italy. As it is impossible for other nations and communities to become Englishmen, Germans or Italians, so also it is impossible for others to share in the imperialism of these nations. Wherever the English go in the name of "propagation of culture and civilization," the English nationality will also accompany them. If anyone were to ascend the throne of the British government, he would be English; if there were to be presidents of political organizations, they would be the English; if there were to be people with authority and power, they would be the English. It is impossible for other people belonging to a different race and nationality to acquire position of authority and power in the British government, however well they might have adapted to the British culture and civilization. Similar is the case with the imperialism of other nations. In this kind of system, inevitably the right to rule and govern becomes a reserve of the inhabitants of a country and members of a particular race, and it is very obvious that race and nationality are not such things which a person can acquire; its sphere remains confined to those whom nature likes to give birth in a particular race or country. The doors of this system of imperialism remains always closed for others, and in the dominion of a particular race, people from another race cannot have any share in it for the obvious reason that they do not belong to the ruling race. Due to this, many other evils also crop up. The conquered, as a people, get so demoralized and debased that eventually they lose all sense of nobility and self-esteem, and even if the rulers do not oppress and

tyrannize them the traits of inferiority and baseness naturally take root in them which is the inevitable result of being deprived of the power to rule themselves and which act as lethal germs for the very soul of their progress and advancement.

Contrary to this, Islam is not a name of any race or nation. It is a Law and a way of life whose doors are always open for all; Arabs, non-Arabs, Africans, Chinese, Indians, Europeans, everyone can embrace and adopt it and once it is embraced, Islam confers equal rights, duties, responsibilities, authority and status on all of them in its collective system of life. It is not concerned with man's race or colour or nationality. It addresses man as a human being and presents before him a way of life and a Law of organizing the human life which it considers to be the best. Whoever embraces this system and Law becomes a member of the Islamic community and is an equal partner in the Islamic government and on the basis of his personal capabilities can even reach the rank of Imam or the caliph. As in the other governments of the world, the qualification for occupying position of authority is to pass Civil Service examination or any other similar examination, similarly in Islam too the standard or qualification for occupying the position of authority and position of guidance and reformation is to embrace the Islamic way of life and obey the Law of Truth. Anyone who satisfies this condition attains this position irrespective of his colour and race. As we are to explain in the ensuing pages, Islam neither believes in "rule of a nation over another nation" nor in "rule of nation on itself"; rather it believes and presents the principle of "rule of the virtuous", and according to it if an African slave is more just and virtuous, nothing can prevent him from ruling over the Arab nobility. There is a very clear ruling of Prophet Muhammad (peace be upon him) in this regard:

*"Listen and obey, even when a bald African slave is proclaimed your ruler." (Bukhari – Narrated by Hazrat Anas bin Malik)*

The final call inviting people to Islam was initially given in Arabia and the Arabs had the first honor to raise its standard. But Islam has never given Arabs the exclusive rights to rule and govern. As long as the Arabs were "virtuous" they ruled half of the world. When they became incapable, the non-Arabs, who had been earlier conquered by the Arabs, ascended the Islamic government and ruled the Arabs. Turks were very intense enemies of Islam, but when they embraced Islam, more than half of the Islamic world accepted them as its rulers and from Chatgam to Qartajna their flags kept flying high. We admit that today we find a lot of discrimination based on nationalities and race in the Muslim world, but it has nothing to do with Islam. Islam has never given even an iota of a place to this discrimination in its teaching or ordinances.

This was an outward difference between Islam and imperialism. The intrinsic difference is even clearer than this; rather it is quite distinctive. Imperialism, as a matter of fact, is a desire of a nation to expand its dominion and acquire more wealth and opulence. When a nation is not contented with the power and wealth that it possesses in its own country, it attacks the other countries and takes possession of their wealth and riches, subjugates and enslaves their inhabitants and lets its trade and industry thrive on their expense. This has been going on in the past and all unruly nations have always been doing this. But now the Western nations have given a new nomenclature, "propagating culture and civilization" and "service to humanity," to this imperialism and robbery. In their constitution of "culture and civilization," the first clause is "power is the Truth and the weak have no right to live in the world." The method they have invented to propagate "civilization" among the weak nations is that they are made

“richer and opulent” with the “precious gems” of ignorance, poverty, baseness of slavery, impiety, and barter of conscience; their show of the best efforts of “service to humanity” is staged when their bestial powers attack one another and destroy the peace and tranquility of the world.

The holy teachings of Islam are free from this defect. Contrary to the above, Islam invites the human world to annihilate the above referred kinds of unruly powers and establish in their place a just system of government. It claims that authority, power and kingship belong to Allah alone: *إِنِ الْخُكْمُ إِلَّا لِلَّهِ* (“*The Command rests with none but Allah*”<sup>1</sup>) and that those who themselves are servants of Allah have no right to enslave the other servants of Allah as their own slaves. Their duty as vicegerents of Allah is to serve and reform His servants, and spend whatever power they have for the welfare of Allah’s creatures instead of serving their own selfish desires and motives. The very first condition to qualify for this “vicegerency” or “inheritance of the earth” is virtuous deeds:

وَعَدَ اللَّهُ الَّذِينَ آمَنُوا مِنكُمْ وَعَمِلُوا الصَّالِحَاتِ لَيَسْتَخْلِفَنَّهُمْ فِي الْأَرْضِ كَمَا

(النور: 55)

اسْتَخْلَفَ الَّذِينَ مِن قَبْلِهِمْ

“Allah has promised, to those among you who believe and work righteous deeds, that He will, of a surety, grant them in the land, inheritance (of power), as He granted to those before them.”

(The Quran, 24:55)

وَلَقَدْ كَتَبْنَا فِي الزَّبُورِ مِن بَعْدِ الذِّكْرِ أَنَّ الْأَرْضَ يَرِثُهَا عِبَادِيَ الصَّالِحُونَ

(الأنبياء: 106-105)

إِنَّ فِي هَذَا لَبَلَاغًا لِّقَوْمٍ غَبِيٍّ

“Before this We wrote in the Psalms, after the Message (given to Moses): ‘My servants, the righteous, shall inherit the earth. Verily in this (Quran) is a Message for people who would (truly) worship Allah.’ (The Quran, 21:105-106)

<sup>1</sup> The Quran, 6:57, 12:40 & 67.

The people who get this "vicegerency" and "inheritance of the earth" are sternly instructed that the power they have been given over the other servants of Allah is a trust of Allah with them, and should not be considered as a personal possession or property and should not spend it on the fulfilment of personal and carnal desires. When Prophet David (peace be upon him) was bestowed with a kingdom, he was commanded:

يٰدَاوُد اِنَّا جَعَلْنٰكَ خَلِيفَةً فِى الْاَرْضِ فَاحْكُم بَيْنَ النَّاسِ بِالْحَقِّ وَلَا تَتَّبِعِ  
الْهَوٰى فَيُضِلَّكَ عَنْ سَبِيلِ اللّٰهِ ۗ الَّذِىۤنَ يَضِلُّوْنَ عَنْ سَبِيلِ اللّٰهِ لَهُمْ  
عَذَابٌ شَدِيۡدٌ يَّمَّا تَشُوْا يَوْمَ الْحِسَابِ ﴿٢٦﴾

(س: 26)

*"O David! We did indeed make you a vicegerent on earth; so judge you between men in truth (and justice); nor follow you the lust (of the heart), for it will mislead you from the Path of Allah; for those who wander astray from the Path of Allah, is a Chastisement Grievous, for that they forget the Day of Account."* (The Quran, 38:26)

When man attains power and authority, a great defect sets in him; he considers himself a loftier entity than common people, and forgetting his true worth, he misconstrues that those who are his subjects are born as if to serve him. Islam has strictly instructed to eschew this defect, and has based achievement of salvation on abandonment of this flaw:

بَلَدَ الدَّارِ الْاٰخِرَةِ نَجْعَلُهَا لِلَّذِيۡنَ لَا يُرِيْدُوْنَ عُلُوًّا فِى الْاَرْضِ وَلَا فَسَادًا  
وَالْعَاقِبَةُ لِلْمُتَّقِيۡنَ ﴿٨٣﴾

(القلم: 83)

*"That Home of the Hereafter We shall give to those who intend not high-handedness or mischief on earth; and the End is (best) for the righteous."* (The Quran, 28:83)

The foremost objective of establishing a dominion or government is to treat the people with justice. Justice is not just delivering a correct judgment between two litigants. The real justice is that the ruler, while dealing with his

subjects, should always give due regard to the Truth, and even when his personal gain and regnant dignity are at stake, and in spite of possessing the power and authority, he has to deliver justice according to the truth, irrespective of whether it harms him personally or harms his friends and relatives. The Islamic teaching in respect of this kind of justice is the best teaching:

يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ بِالْقِسْطِ شُهَدَاءَ لِلَّهِ وَلَوْ عَلَىٰ أَنْفُسِكُمْ أَوِ الْوَالِدِينَ وَالْأَقْرَبِينَ إِنْ يَكُنْ غَنِيًّا أَوْ فَقِيرًا فَاللَّهُ أُولَىٰ بِهِمَا فَلَا تَتَّبِعُوا الْهَوَىٰ أَنْ تَعْدِلُوا وَإِنْ تَلَّوْا أَوْ تُعْرَضُوا فَإِنَّ اللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا ﴿١٣٥﴾

(النساء: 135)

*"O you who believe! Stand out firmly for justice, as witnesses to Allah, even as against yourselves, or your parents, or your kin, and whether it be (against) rich or poor; for Allah can best protect both. Follow not the lusts (of your hearts), lest you swerve, and if you distort (justice) or decline to do justice, verily Allah is well-acquainted with all that you do."* (The Quran, 4:135)

It goes a step further and ordains that justice should be imparted even to those nations with which you have enmity:

وَلَا يَجْرِمَنَّكُمْ شَنَاٰنُ قَوْمٍ عَلَىٰ أَلَّا تَعْدِلُوا ۖ اِعْدِلُوا ۖ هُوَ أَقْرَبُ لِلتَّقْوَىٰ وَاتَّقُوا اللَّهَ ۚ إِنَّ اللَّهَ خَبِيرٌ بِمَا تَعْمَلُونَ ﴿٨﴾

(المائدة: 8)

*"And let not the hatred of any nation to you make you swerve to wrong and depart from justice. Be just; that is next to Piety."* (The Quran, 5:8)

After attaining power and might, inevitably a nation develops a desire to expand the boundaries of its dominion and conquer the countries of weaker nations. This greed for land and riches is the real cause for oppression and unruliness and for its sake nations wage wars. But Islam strongly condemns this and not only strictly instructs to avoid it but commands to wage war against those who

commit this sin, as has been explained in detail in the previous pages when we took up the study of mischief and oppression. In one of the traditions, the Prophet (peace be upon him) says:

*"Anyone who acquires even a span of land unjustly, Allah will put a collar of seven earths similar to it in his neck."*

(Muslim)

In another tradition, it is reported that the Prophet of Allah said:

*"This wealth is a very delicious thing. Whoever acquires it justly and spends it justly, it is the best provision for him. But one who acquires it unjustly, he is just like the one who eats but is never satiated."*

In the Holy Quran and the Traditions of the Prophet, every minor detail has been given about the political ethics; but this is not the occasion to enumerate them. Briefly, Islam has forbidden all those comforts and delights appertaining to power and authority, avarice of which usually compels man to acquire it. In Islam, a ruler is neither a more eminent and loftier entity than his common subjects, nor can he sit on the throne of grandeur and exaltation, nor can he ask anyone to bow his head before him, nor can he act against the law of justice and truth even in a tiny and insignificant matter, nor has he the authority to save himself or his friends or kin from the rightful claims of even a very ordinary person, nor can he take even a penny or a span of land without any justification; a fear always dominates him that a very strict account of his actions will be taken, and even if an unlawfully acquired penny or a span of land, or an iota of haughtiness and arrogance, or an atom of oppression and justice, or a trace of servility of carnal desires were to be found in his account books, he has to face a very grievous punishment in the Hereafter.

The real position of a ruler in Islam and the real nature of his official responsibilities have been described by



Hazrat Abu Bakar in his speech delivered soon after he was elected as Caliph. He said:

*"O people! I have been given the job of governing you, although I am not better than you. In my estimation, the weakest among you is the strongest until I do not get him his due, and the strongest among you is the weakest until I do not recover the due from him. O people! My status is not loftier than an ordinary person among you. If you find me on the straight path, then follow me, and if you find me going astray, then correct me."*

The second Caliph, Hazrat Umar, explains the office of the caliphate, in one of his speeches, as under:

*"My interest in your wealth is as that of the guardian of the wealth of an orphan. If I am prosperous, I am not going to take anything out of it. If I am poor, then I will take my rightful emoluments. Some of your rights are binding on me which you can demand of me. It is my duty that I should not collect any unlawful taxes from out of the tribute and "Fae"<sup>1</sup> which Allah has granted you, and it is your right, which is binding on me, that the wealth which comes into my possession is not spent but in the lawful manner."*

After removing every kind of royal pomp, dictatorship, abundance of wealth and riches, and all comforts and carnal desires from the realm of the government, there remain only the plain and bland government responsibilities that, in Islam's own words, are as under:

الَّذِينَ إِنْ مَكَّنَّاهُمْ فِي الْأَرْضِ أَقَامُوا الصَّلَاةَ وَآتَوُا الزَّكَاةَ وَأَمَرُوا بِالْمَعْرُوفِ وَنَهَوْا عَنِ الْمُنْكَرِ  
(41:41)

*"(They are) those who, if We establish them in the land, establish regular prayer and give Zakat, enjoin the right and forbid the wrong."* (The Quran, 22:41)

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<sup>1</sup> "Fae" is different from "spoils of war" and the "tribute"; the lands and other properties of the conquered people are known as "Fae" and they are not distributed among the soldiers; their possession is retained by the Islamic government. For a detailed discussion see the segment "Issue of Spoils of War" in this book under Chapter V. [Translator]

This is not just an assertion or a claim that Islam makes; rather the Prophet of Islam (peace be upon him) and his rightly-guided Caliphs have presented before the world a complete practical model based on this claim. The subject matter of this book is elucidation of the Islamic Law and not narration of history. But having made a mention of it, we will present here some examples from the Islamic history to show the high standards that an Islamic government is ordained to maintain.

1. It is narrated by Hazrat Ayesha that (the case of) a noble woman of the tribe of Bani Makhzoom, Fatima bint Asad, who had committed theft, had got worried the people of the Quraish (that the Prophet would certainly, as usual, order severance of her hand). They deliberated who can go and talk to the Prophet, and then (they came to the conclusion) who could have the courage to talk to the Prophet but his favourite and beloved, Hazrat Usama bin Zaid. (They persuaded him to take up the task) and he went and talked to the Prophet of Allah. (The Prophet) said: "Do you recommend against a penal ordinance among the penal ordinances of Allah?" Then he stood up and addressed the people: "O people, the thing which destroyed the people before you is that when a noble person used to commit theft, he was let off and when a weak used to commit a theft, the penal ordinance was promulgated on him. By Allah, if Fatima, the daughter of Muhammad, were to commit theft, Muhammad would have severed her hand too." Then on the orders of the Prophet, her hand was severed.  
(Bukhari, Muslim, Ibne Maaaja)
2. During the Battle of Badar, Prophet's own son-in-law (Abul 'Aas)<sup>1</sup> was arrested and brought along with the

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<sup>1</sup> This gentleman was the husband of Hazrat Zainab, daughter of the Prophet of Allah. Up till 7 AH, he remained an infidel. Later on he embraced Islam.

other leaders of the Quraish and imprisoned as an ordinary person along with the other prisoners. He had no money to pay the ransom amount and was ordered to get the money from home and pay the ransom or remain imprisoned. He sends word to his wife, i.e. the daughter of Prophet of Allah, Hazrat Zainab, and receives that expensive necklace for payment of ransom, which Hazrat Khadija, wife of the Prophet, had given her as her dowry. Seeing the necklace, memory of his wife revived and involuntarily tears welled in Prophet's eyes. However, he did not remit the ransom on his own authority. He sought permission from the people that if they permitted, the souvenir of a mother to her daughter be returned, and when the people permitted, then only the son-in-law of the Prophet was released without payment of any ransom.

(Tabari, Abu Dawood)

3. At Hudaibiya, a treaty was formalized between the Prophet of Allah and the infidels of Quraish. The terms and conditions of the treaty had been finalized and they were being written down. At that very moment, a Muslim, Abu Jandal bin Suhail, escapes from the imprisonment of the infidels; his feet were fettered and his body was covered with wounds from the beatings. He falls down before the Muslims and pleads that he be released from the imprisonment. There were 1400 armed Muslims with the Prophet and on just one signal, Abu Jandal could have been got released. However, one of the conditions of the treaty finalized was: "Whoever flees the Quraish and goes to the Muslims shall be returned back, and if a person goes to Makkah he shall not be returned," and therefore the Prophet refused to take him under his protection. Abu Jandal shows his wounds, and pleads: "Do you turn me back to face this torture again?" But the Prophet says: "O Abu Jandal,

be patient and persevere. We cannot breach the agreement. Allah will have a way out for your release."

(Fath-al-Baari, Vol. 5)

4. For the Battle of Yarmuk, the Caesar of Rome had assembled a very large army to fight the Muslims and was determined not only to drive out Muslims from Syria and Palestine, but to crush their power completely. At that decisive moment, to safeguard and secure their power, Muslims needed every penny. In spite of this dire need, Muslims gathered the inhabitants of Hums and returned back the money they had collected as Jiziya from them by saying that they could not protect them any longer and that the inhabitants had to make their own arrangements in this regard. The inhabitants of Hums responded by saying: "Your justice and fair-play is dearer to us than the tyranny and oppression with which we were being treated; we will fight the army of the Caesar under the command of your governor." (Futooh al-Buldan al-Balazuri) It should be remembered that Caesar was a Christian king and these people who wanted to fight him along with the Muslims were also Christians and had been living under the reign of Roman Empire for centuries.
5. While setting off for the Battle of Siffeen, the armour of Hazrat `Ali, the fourth Caliph, gets stolen. When he returns back from the battle, he finds the very same armour in the capital city with a Jew. He demands his armour from him. But he says that the armour belongs to him and has always been in his possession. The Caliph of the time is sure that the Jew is lying and that this is the armour which had been stolen. In spite of this, he does not use his regnant authority and as a helpless plaintiff approaches the court of Justice Shuraih and files a plaint. The judge neither gives any regard to his lofty personality nor passes the judgment just based on his claim. He asks him to produce

evidence regarding ownership of the armour. He produces before him his slave, Qambar, and his son Hazrat Hasan as witnesses. The judge says to the Caliph that the evidence of Hazrat Hasan is not valid as he is your son, and evidence of a son on the claim of a father is not accepted. Witnessing this, the Jew loudly confesses the Islamic Faith and proclaims that the religion which has this kind of system of justice must be the true religion.

6. A governor of the second Caliph, Hazrat Umar comes to him with a large amount of Jiziya. He enquires about it. The governor says: "This is the Jiziya that we have collected from the Zimmies." Sensing it to be unusually large he suspects that it might have been collected forcibly. He says: "I suspect that you must have ruined the people." He says: "By Allah, we have collected it very gently." He asks: "Without any binding and beating." He says: "By Allah, without any binding and beating." Then only the amount is taken into the treasury. (Fath al-Bayan) Imam Abu Yousuf writes in his book "*Kitab al-Khiraj*" that whenever the amount of tribute was brought to Hazrat Umar from Iraq, it used to be accompanied by ten responsible officers from Kufa and ten from Basara and they used to assure him by taking the legal oath four times that the amount so collected was lawful and that it had not been collected from a Muslim or a Zimmi under duress.
7. Abu Shahma, son of Hazrat Umar, drinks wine and is arrested as an ordinary criminal. Hazrat Umar gives him 80 lashes with his own hands and he dies because of the whip injuries.<sup>1</sup> Hazrat `Abdullah, son of the governor of Egypt Hazrat `Amar bin `Aas, beats a person. He complains in the court of the caliphate, and Hazrat `Umar gets Hazrat `Abdullah whipped by the

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<sup>1</sup> Mu`arif Ibn Qutaiba

complainant. Word is received that huge wealth has been accumulated by Hazrat `Amar bin `Aas. Hazrat Umar writes to him: "Before being appointed governor, you did not have so much wealth; where did it come from." He replies: "My province is very fertile and therefore much wealth remains over even after my expenses." This reply does not satisfy Hazrat `Umar. He deposes Hazrat Muhammad bin Muslima with full authority. After reaching Egypt he scrutinizes the belongings of Hazrat `Amar. He calculates his previous wealth, estimates the reasonable compensation that he could get on that wealth during his tenure as a governor, and then seizes the excess wealth and deposits it into the treasury. The very powerful Governor of Egypt whose reign reached up to Tripoli, watches all this and could do nothing. (Balazuri)

8. A complaint reaches Hazrat `Umar against Hazrat Mughaira bin Shua'ba, the governor of Basra that he has an illicit relationship with a woman. Immediately, Hazrat Umar orders Hazrat Abu Musa Ash`ari: "Satan has built a home in Basra; take charge of the governorship there and send Mughaira along with the witnesses." According to this order, Hazrat Mughaira is sent to Madinah. The case is presented in the court of Hazrat Umar himself. During the cross-examination the witnesses crumble; huge differences in the evidence occur and the allegation is not proved, and therefore Hazrat Mughaira is released and while releasing him, Hazrat Umar says: "If the evidence were to be absolute, surely I would have got you stoned to death."<sup>1</sup> This gentleman, Mughaira, was a very illustrious Companion of the Prophet of Allah and was one of the four most

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<sup>1</sup> This incident has been narrated in detail in *Tabari* and *Ibn Aseer*. *Balazuri* has also mentioned this with a little variation.

famous statesmen of the Arab world,<sup>1</sup> who had rendered great political and military services to Islam. But his greatness and dignity, his valuable services, the lofty position of governorship, his nobility and popularity in the Arab world, in short, nothing came to his rescue and he had to present himself in the court as an ordinary criminal. In the worldly governments, immoral acts of any officer are considered his personal affair; rather today in the statutes of the most civilized countries if adultery or fornication is committed with mutual consent, it is not at all a crime. But in the government whose main objective was reformation of humanity and enjoining the good and forbidding the wrong there was no room for a person whose personal behaviour was not above board.

9. In Persia (Iran), Muslims had besieged a city (Shuhriyaj) and the resistance of the besieged got so weak that the conquest of the city was quite imminent. At that very moment, a slave from the Muslim army writes a treaty of immunity in favour of the inhabitants and throws it into the city after tying it to an arrow. Next day when the Muslim army attacked the city, the inhabitants of the city came out saying: "Why are you attacking us when a Muslim has already given us the immunity." When the document was examined, it was found to have been written by a slave. The matter was referred to Hazrat Umar and he was asked about the validity of the document. In reply, Hazrat Umar wrote back: "A Muslim slave is also like a free and common Muslim. His guarantee is as good as the guarantee of common Muslims; hence implement the peace treaty given by him." (Balazuri)

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<sup>1</sup> The four gentlemen are: Hazrat Ameer Mu`aviya, Hazrat `Amr bin `Aas, Hazrat Mughira bin Shu`ba, and Hazrat Ziyad bin Abi Sufiyan.

10. After the demise of the Prophet of Allah, Hazrat Abu Bakar Siddique was elected the very powerful ruler of the Arabian government. On the very next day of his election, Hazrat `Umar saw him going towards the market carrying bundles of cloth on his head. Hazrat `Umar said: "Now that you are the leader of the Muslims, this job does not befit you." He replied: "Then how should I look after myself and my family?" Hazrat `Umar suggested that Abu `Ubaida would do this work for him. Hence, a deal was struck between the Islamic Caliph and Abu `Ubaida that Abu `Ubaida would take over the trade of the Caliph and in return he would provide him and his family provisions of a middle-class Muhajir and summer and winter clothes. Then, a monthly salary of 500 Dirhams was fixed for the Caliph. At the time of his death, he asked people to calculate the amount of wealth that might have increased in his holdings and handover the excess wealth to the next Caliph. Hence, after his death when an account was taken, he had in his possession nothing but one she-camel, one Zangi slave and one old sheet of cloth. (Fath al-Bari)
11. During the reign of Hazrat Umar, the flood of Islamic conquests had extended from Iran to North Africa. Millions of Dirhams used to be deposited in the treasury every year by way of booties of war and collection of tribute money. All the treasures of Rome and Iran were in the possession of the Muslims. But the ruler of this vast empire was usually seen attired in clothes with twelve and more patches, wearing worn-out sandals in his feet and a worn-out headgear on his head serving and taking care of widows, orphans and the needy. When people from Rome and Persia used to visit the capital, it was difficult for them to differentiate and recognize the ruler of the Islamic empire from the commoners. When he visited Syria, he travelled in such



a fashion that people could not differentiate between the Caliph and his slave. During the conquest of Jerusalem when he entered the city, he was on foot and was wearing such coarse clothes that the Muslims felt embarrassed that the Christians may think lowly of him. Camel's milk, olive oil and wheat bread were the best food available to him. When he died, he did not have enough wealth to pay off his debts; hence his house was sold and the debts were cleared.

These incidents are not myths and stories, but are solid established historical facts. Looking at them, tell me if there is any better model of government in the world than this? The people whose constitution of governance is based on such fear of God, piety, selflessness, freedom and equality, justice and fair play, fulfilment of commitments and covenants, and such honesty, can their claim to govern the world or, more appropriately, their right to serve the humanity be false and unfounded? If they had dethroned the tyrannical and reveling rulers of Persia, if they had ousted the evil and cruel rulers of Rome from their power, if they had overthrown the satanic governments of the neighbouring countries and had established in their place a just government, please tell me whether it was oppression of the humanity or a great service to it. As against them, tell me what kind of prestige these false claimants of the West can command who are quite far away from justice and fair play, honesty, fulfilment of commitments and covenants, and who know no other desire except lust of territorial conquests, avarice for wealth and opulence and greed to acquire more political power and authority.

We do concede that a majority of the latter-day Muslim governments had deviated from the above principles of governance which Islam has presented. But this is not the defect of Islam; it is the defect of its followers. Islam is a Law which is based on the Holy Quran and the Traditions of the Prophet of Allah. Whichever

government governs according to this Law is an Islamic government, and whichever governs against it is not an Islamic government. For us action of kings is not the proof; it is the Law of Islam which is the proof. If there is any defect in it, then it should be brought into open.

### **THE REAL REASON BEHIND ISLAMIC CONQUESTS**

Before proceeding further with our discussions, it is necessary to clear one more issue here. It has been stated again and again in this book and it will be stressed later in appropriate places too that under the Islamic Law, it is forbidden to wage war just for the purpose of territorial conquests. Then a question arises here if it is forbidden in Islam, what justification can be given for the attacks carried out by the Prophet's Companion and the rightly-guided Caliphs on Iraq, Syria, Iran, Armenia, Egypt, North Africa and other countries. The opponents of Islam have come out with this objection very strongly, and the Muslim historians and authors have even countered this objection in detail. But no one pondered that there is a sharp difference in the standpoint of Muslims and non-Muslims on this point. Hence, those who countered this objection keeping in view the standpoint of the non-Muslims have wrongly interpreted the Islamic viewpoint, and those who have countered it ignoring these viewpoints have created more doubts.

As a matter of fact, Islam does not discriminate between "national" and "foreign" in respect of government; rather it regards the basis for discrimination, "justice" and "tyranny." If the government of a country is in the hands of its own inhabitants, but its rulers are evildoers, oppressors, selfish and ungodly, then they are as loathsome as the evil rulers of a foreign government. As against this, if a non-Arab rules the Arabs and in all matters acts according to justice, honesty and piety; redresses the grievances of the oppressed; restores the rights to their proper holders; does

not behave with arrogance; restrains himself from selfishness and self-indulgence; and does not use his power except for the welfare of his subjects then in the sight of Islam he is a better ruler for the Arabs than that Arabian ruler who is devoid of these attributes. The concept that a tyrannical Arab is better for Arabs than a just non-Arab, and a Turk however good and pious he might be is not acceptable to the Iraqis because of he being a Turk, is a concept which Islam, in principle, considers wrong and completely false. It does not view this issue from the viewpoint of "nationality" and "patriotism"; rather it views it from the viewpoint of "humanity." It believes that a "good and pious" man is, at any rate, more preferable than a "non-pious" person, and it considers it to be the worst kind of prejudice to discriminate the good human attributes on the basis of ours and theirs, national and foreign, Indian and Iraqi, African and European, white and black.

According to this Islamic belief, neither the criterion of goodness of a government lies in it being national and self-elective nor is the criterion of its badness lies in it being foreign or non-elective; the real issue is whether the system of the government is based on justice and the truth or not. If the government is based on justice and truth, then leave alone its destruction, even thinking of destroying it is a grave sin in the sight of Islam. On the contrary, it regards replacing an oppressive system of government by a just system of government as the foremost duty. It does not consider in a positive or negative sense the question of a government being national or foreign; in other words, according to it, the government being national or foreign will not have any bearing on it being good or bad. It is another matter that a non-national or foreign government is usually oppressive and tyrannical, because the very purpose of a nation establishing a government on another nation is to enslave and use it for its advantage; as against this a national government will have more opportunities of

prospering. However, in spite of this, it is not necessary that a national government, at any rate, should be better and a non-national government in no way could be just. It is possible that unruly and demonic persons belonging to a nation itself could dominate it and enslave and destroy it for their selfish motives. Similarly, it is possible that pious and selfless reformers of foreign origin could free another nation from the clutches of tyranny and oppression and open ways for their material and ethical prosperity. Hence, the criterion of a government's excellence lies in it being just and virtuous, and the real criterion of its evil lies in it being unjust and impious.

However, it is not correct to infer from the above assertion that Islam is against national governments. It acknowledges the right of every nation to reform itself. But when a nation's behaviour and conduct gets spoiled, its ethical condition gets vitiated, and after acquiescing to the authority of its own evil and unruly persons falls into the deep pit of ignominy and indigence, then according to Islam, they lose their right of self-governance, and others, who are more virtuous than them, get the right to govern them. In the Holy Quran, the evil and wicked nations have been warned again and again:

وَأِنْ تَوَلَّوْا يَسْتَبْدِلْ قَوْمًا غَيْرَكُمْ ثُمَّ لَا يَكُونُوا أَمْثَالَكُمْ ﴿٣٨﴾

*"If you turn back (from the Path), He will substitute in your stead another people; then they would not be like you!"*

*(The Quran, 47:38)*

إِلَّا تَنْفِرُوا يُعَذِّبْكُمْ عَذَابًا آَلِيمًا ۖ وَيَسْتَبْدِلْ قَوْمًا غَيْرَكُمْ وَلَا تَضُرُّوهُ شَيْئًا ۚ

(التوبة: 39)

*"Unless you go forth, He will punish you with a grievous penalty, and put others in your place, but Him you would not harm in the least."*

*(The Quran, 9:39)*

إِنْ يَشَاءُ يُدْهِبْكُمْ أَتَاهَا النَّاسُ وَيَأْتِ بِآخَرِينَ (النساء: 133)

*"If it were His Will, He could destroy you, O mankind, and create another race. (The Quran, 4:133)*

A large number of Verses of this purport is found in the Holy Quran, and they all assert that the right to govern and rule is conditional to the above-mentioned good capabilities; the nation which loses these capabilities will also lose this right and the one which develops these capabilities will get back this right too. Do not ever think that these capabilities are synonymous with power and might. These special traits and talents are reserved for those people who worship only One God, enjoin the good and forbid the wrong, and firmly believe that one day they have to account for all their deeds:

يُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَيَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ  
وُسَارِعُونَ فِي الْخَيْرَاتِ وَأُولَئِكَ مِنَ الصَّالِحِينَ ﴿١١٤﴾  
(آل عمران: 114)

*"They believe in Allah and the Last Day; they enjoin what is right, and forbid what is wrong; and they hasten (in emulation) in (all) good works; they are in the ranks of the righteous."*  
(The Quran, 3:114)

These righteous people are not the asset of any one particular nation or country; rather they belong to the entire humanity. All the children of Adam are entitled to reap benefits out of their capabilities, and if they were to confine their services to a limited group or a parcel of land, it would be a great injustice to the humanity. Islam has not fixed any boundaries of colour, race, or geographical divides for them; rather it has made the benefits of their capabilities universal for the entire world without any restrictions whatsoever. Hence, the Holy Quran very clearly states:

وَلَقَدْ كَتَبْنَا فِي الزَّبُورِ مِنْ بَعْدِ الذِّكْرِ أَنَّ الْأَرْضَ يَرِثُهَا عِبَادِيَ الصَّالِحُونَ ﴿١٠٥﴾  
(الأنبياء: 105)

*"Before this We wrote in the Psalms, after the Message (given to Moses): 'My servants the righteous, shall inherit the earth.'"*  
(The Quran, 21:105)

This is the real spirit of Islamic teachings about state and government. After comprehending it well, it is very easy to understand the reason behind the conquering steps that the Companions of the Prophet took which overthrew the kingdoms of Caesar and Chosroe, and rendered ineffectual the spell of the rule of Untruth. After reforming their country, when they looked at the outside world they noticed that tyrannical and despotic rulers had occupied the neighbouring countries and were ruling them; the strong had enslaved the weak; the rich had practically as if bought the poor; man had become god of man; there was nothing like justice, fair play and law; the rights of the people were usurped just by the blink of an eye of the rulers and kings; dignity and honour were being sullied and chastity of women were being torn asunder; homes were being destroyed and destinies of communities and nations were being decided upon by an unruly few. They observed wealth of the poor, which they had earned and saved after toiling hard, being robbed by oppressive measures and spent on the gaiety and luxurious life of the rulers. They also noticed the rulers themselves being extremely sinful, evildoers, covetous and lascivious, and their subjects also being involved in all kinds of sins; wine was freely available; promiscuity and gambling were fully licensed; corruption and dishonesty were widespread; wickedness of man had broken all limits and boundaries; to satisfy his carnal desires man no more knew or cared for any kind of restrictions, and baseness of his morality had reached such a level that if the outward veils of the splendour of civilization were to be lifted and looked underneath even the beasts would have been ashamed of his bestiality.<sup>1</sup>

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<sup>1</sup> Books of history are full of details about the lowness of the political, ethical and religious standings of Iran, Rome, Egypt and other countries. In promiscuous relationships no discrimination was made even between father and daughter, and brother and sister. Even the religious teachers and leaders used to commit worst kinds of ethical crimes. In Iran, Mazdakism had destroyed the

Noticing the fellow humans in this ignominious condition, this pious group of people who were ever ready to lay down their lives for the Truth, readied themselves to reform them. First of all they took recourse to counseling and invited the King of Iran, the Caesar of Rome and Muqawqis of Egypt to adopt the rule of Islamic law of justice and truth. When they rejected this invitation they were asked to vacate their thrones and handover the right to rule to those who are more qualified and capable. But when this demand was also not heeded, then they were offered the sword and a small force of men rose and overthrew the two very powerful and grand empires of the time simultaneously and freed all those people, from the borders of India to North Africa, who were being destroyed by their tyranny and oppression.

You are free to regard the action of this reformist group as an act of imperialism, excessiveness or transgression, but you cannot deny the account of history that their government lifted up those nations which had fallen into the deep abyss of baseness, helped them reach the pinnacles of material, ethical and spiritual progress, and generated anew power of growth and progression in the nations which were ignorant of any kind of refinement and civilization, examples of whose splendour can still be found in the human world. The religion of nationality might perhaps pass its verdict and say that the Arabs had no right to attack Iran and Rome even if they were at the verge of extinction, but the religion of the Truth says that by this

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entire social system. In Rome, lasciviousness of the Caesars and the rich had caused the ethical fall to reach its rock bottom. Enslavement of Egypt and Africa by the Romans had turned them into bundles of worst traits. Close to Arabia itself, in Syria and Iraq the affects of these two Empires had caused serious ethical tumults. To know more about these conditions prevalent at that time, it is suggested to read, instead of Islamic history books, the books written by European researchers and historians like Sir John Malcolm, Edward Gibbons and others. "*History of European Morals*" written by William Edward Hartpole Lecky specially describes in detail the ethical conditions of the Romans of this age.

action they rendered humanity a great service, and in fact, it was the misfortune of the world that a very large part of it was deprived of the services of such a pious and virtuous group of people like of which the eyes of the sun had never seen or perhaps ever see on the face of the earth.

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## CHAPTER IV

PROPAGATION OF ISLAM  
AND THE SWORD

From the elucidation given above about the objectives of the Islamic war which is wholly based on the Holy Quran, the Traditions of the Prophet and authentic religious books, the readers must have observed that nowhere any command or ordinance to convert non-Muslims to Islam by use of sword or force can be found; rather there is not even room to derive such a meaning from any of the ordinances that Islam coerces people to believe in its truth by the use of force. Non-existence of such an ordinance in Islamic laws of war in itself is enough to disprove the allegation leveled against it by its opponents. But in view of the confusions and deceit that the prejudiced authors and their ignorant followers have spread all over the world in this matter, it is felt necessary to describe in greater clarity all the principles and ordinances of Islam on this issue too.

In the Verses of the Holy Quran where laws and ordinances of war have been detailed, while explaining the objectives of war and bloodshed, a limit has also been fixed for waging war and it has been prohibited to cross that limit. This limit has been very clearly demarcated in the Holy Quran not in a place or two but in many places. Thus, in *Sura Baqra* (Chapter 2) while commanding Muslims to wage war, it is stated:

(البقرة: 193)

وَقَاتِلُوهُمْ حَتَّى لَا تَكُونَ فِتْنَةٌ وَيَكُونَ الدِّينُ لِلَّهِ

*"And fight them on until there is no persecution and the religion becomes Allah's."* (The Quran, 2:193)

Here the word *حَتَّى* (until) has demarcated a limit that until the persecution remains and the impediments in the progress of the religion stay, the war is to be continued, and

when these two things are removed, then the war should be ceased to be waged forthwith. Hence, in the aforesaid Verse, it is further instructed:

فَإِنْ انْتَهَوْا فَلَا عُدْوَانَ إِلَّا عَلَى الظَّالِمِينَ ﴿١٩٣﴾ (البقرة: 193)

*"But if they cease, let there be no hostility except to those who practise oppression."* (The Quran, 2:193)

In Sura Mayeda (Chapter 5), it has been mentioned even more clearly than this as to when a human life becomes violable and when it is rendered inviolable:

مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا

(المائدة: 32)

*"If any one slew a person – unless it be for murder or for spreading mischief in the land – it would be as if he slew the whole people."* (The Quran, 5:32)

It is understood from the above Verse that a human being can be killed only for two reasons. One is that he should have unlawfully killed another person, and the other is that he should have spread mischief on the earth. Apart from these two reasons, killing a person for any third reason is not only unlawful but is such a great sin that the Lord of the Worlds considers it akin to killing the entire world.

In Sura Tauba, (Chapter 9), payment of Jiziya has been fixed as the last limit for waging war:

حَتَّىٰ يُعْطُوا الْجِزْيَةَ عَنْ يَدٍ وَهُمْ صَاغِرُونَ ﴿٢٩﴾ (التوبة: 29)

*"(Fight them) until they pay the Jiziya with willing submission, and feel themselves subdued."*

(The Quran, 9:29)

It means that once the Unbelievers agree for the enforcement of the Islamic Law after having paid the Jiziya, war cannot be waged against them and the licence to wage war ends.

In Sura Shoora (Chapter 42), a comprehensive principle has been mentioned which leaves no room to

wage war against those who do not oppress people and are not unruly:

وَلَمَنِ انْتَصَرَ بَعْدَ ظُلْمِهِ فَأُولَٰئِكَ مَا عَلَيْهِمْ مِنْ سَبِيلٍ ۚ إِنَّمَا السَّبِيلُ عَلَى  
الَّذِينَ يَظْلِمُونَ النَّاسَ وَيَبْغُونَ فِي الْأَرْضِ بِغَيْرِ الْحَقِّ أُولَٰئِكَ لَهُمْ عَذَابٌ  
أَلِيمٌ ﴿٤٢﴾ (الشورى: 41-42)

*"But indeed if any do help and defend himself after a wrong (done) to him, against such there is no cause of blame. The blame is only against those who oppress men with wrong doing and insolently transgress beyond bounds through the land, defying right and justice; for such there will be a Chastisement grievous."* (The Quran, 42:41-42)

In Sura Mumtahana (Chapter 60), it has been clarified that the enmity of Muslims is only towards those Unbelievers who are the enemies of the Religion of Truth and its followers, and those who are not, nothing should prevent Muslims from treating them with justice, kindness and compassion:

لَا يَنْهٰكُمُ اللّٰهُ عَنِ الدِّينِ لَمْ يُقَاتِلُوْكُمْ فِي الدِّينِ وَلَمْ يُخْرِجُوْكُمْ مِنْ دِيَارِهِمْ اَنْ تَبْرُوْهُمْ وَتُقْسِطُوْا اِلَيْهِمْ اِنَّ اللّٰهَ يُحِبُّ الْمُقْسِطِيْنَ ۝ اِنَّمَا يَنْهٰكُمُ  
اللّٰهُ عَنِ الدِّينِ فَمَا تَلُوْكُمْ فِي الدِّينِ وَاَخْرَجُوْكُمْ مِنْ دِيَارِهِمْ وَظَهَرُوا عَلٰى  
اِخْرَاجِكُمْ اَنْ تَوَلّٰوْهُمْ وَمَنْ يَتَوَلَّهُمْ فَاُولٰٓئِكَ هُمُ الظّٰلِمُوْنَ ﴿٩-٨﴾ (الممتحنة: 8-9)

*"Allah forbids you not, with regard to those who fight you not for (your) Faith nor drive you out of your homes, from dealing kindly and justly with them; for Allah loves those who are just. Allah only forbids you, with regard to those who fight you for (your) Faith, and drive you out of your homes, and support (others) in driving you out, from turning to them (for friendship and protection). It is such as turn to them (in these circumstances) that do wrong."*

(The Quran, 60:8-9)

The purport of these ordinances is so clear that it needs no further elaboration. It is quite evident from these that the objective of Islamic war is not to forcibly convert people to

Islam but rather prevent them from committing acts of oppression, tyranny, mischief and persecution, and make them obey the Islamic rule of justice.

The sword of Islam is very sharp in cutting the necks of those who try to annihilate Islam and Muslims or who spread mischief and persecution on Allah's earth – and no one can say that it is not justified in doing so – but those who are not tyrannical, evildoers, do not hinder people from the Path of Allah, do not try to annihilate or suppress the Religion of Truth and who do not destroy the peace and tranquility of the people, whatever their religious beliefs might be and to whichever nation they might belong to, Islam does not bother them, its sword is blunt against them and their blood is inviolable in its sight.

#### “NO COMPULSION IN RELIGION”

Fixing of these limits of war in itself is decisive. But it is the excellent explicative property of the Book of Allah that it has not confined itself to just giving instructions on this issue by inference, but has specifically instructed us that there is no room for compulsion in the propagation of Islam. Hence, in *Sura Baqra* (Chapter 2), it has been very clearly stated:

لَا إِكْرَاهَ فِي الدِّينِ قَدْ تَبَيَّنَ الرُّشْدُ مِنَ الْغَيِّ فَمَنْ يَكْفُرْ بِالطَّاغُوتِ وَيُؤْمِنْ  
بِاللهِ فَقَدْ اسْتَمْسَكَ بِالْعُرْوَةِ الْوُثْقَىٰ لَا انْفِصَامَ لَهَا وَاللهُ سَمِيعٌ عَلِيمٌ ﴿٢٥٦﴾

(البقرة: 256)

*“Let there be no compulsion in religion; Truth stands out clear from Error; whosoever rejects Taghut and believes in Allah has grasped the most trustworthy hand-hold that never breaks. And Allah hears and knows all things.”*

(The Quran, 2:256)

The wordings of this ordinance are very clear. But its intent will be clearer even more if the circumstances in which this Verse was revealed is kept in view. It was customary with the residents of *Yathrib* (Madinah) that

when a woman's children did not survive, she used to take a vow that if any of her child survived she would make him a Jew. By this method, many of the children of *Ansaar* had been made Jews. When in 4 AH, the Prophet of Allah expelled the Jews of Bani Nadheer because of their harmful activities, there were two children of Ansaars among them who were the followers of the Jewish religion. The Ansaar said: "We will not allow our children to be taken away; we had made them Jews when we used to consider their religion to be superior to ours and now that the light of Islam is radiating and we have got a far loftier religion than all other religions, we will not allow our children to remain Jews anymore and will force them to accept Islam." At that juncture, this ordinance was revealed لا إِكْرَاهَ فِي الدِّينِ "There is no compulsion in religion" ordaining that they should not be forced to accept Islam. This incidence, with a little variance in wordings and text, has been reported in the Books of Traditions, *Abu Dawood*, *Nasayee*, *Ibn Abi Hatim*, and *Ibn Habban*; and Hazrat Mujahid, Hazrat Sayeed bin Jubair, Hazrat Sha'bi, and Hazrat Hasan Basri have unanimously said that these were the circumstances in which the above Verse was revealed. Ibn Jubair has mentioned this in his exegesis and Ibn Katheer has relied on this Circumstance of Revelation.

Muhammad bin Ishaq has reported another narration on the authority of Hazrat `Abdullah bin `Abbas that two sons of one of the Ansaars were Christians. He approached the Prophet of Allah and said that his sons were not prepared to give up Christianity and asked whether he could force them to do so. In this context this Verse was revealed that "There is no compulsion in religion." Although this incidence is different from the above-mentioned incidence, but the intention of both is the same, and as `Allamma Ibn Katheer has written in his very popular and authentic exegesis that in the light of this

Circumstance of Revelation the Islamic teachings in this regard clearly mean that:

*"Do not compel any person to embrace religion of Islam, because it is so clear and obvious and its proofs and authenticities are so illuminative that there is no need to compel any person to embrace and accept it. Any person whom Allah has bestowed with guidance, whose heart and mind has been opened up to embrace the Religion of Truth and who has been granted the light of prudence and wisdom will embrace it on his own because of its clear and obvious proofs, and for a person whose faculties of hearing and sight have been sealed off, it is futile to force and compel him to embrace the religion."*

Zamakhshari in his exegesis *Kashshaf* while explaining the aforesaid Verse has agreed with the above narration; he writes:

*"Allah has not allowed compulsion and use of force in respect of Faith; rather it has left it to people's choice and faculties. The Verse 'If it had been your Lord's Will, they would all have believed, all who are on earth! Will you then compel mankind, against their will, to believe'<sup>1</sup> further clarifies this subject. If it were to be the wish of Allah that people should be compelled to embrace Faith, He would have Himself compelled them; but He has not done so and has left the entire matter to the choice of the people."*

Imam Raazi quotes the following narration of Abu Muslim Isfahani and Qaffal about the aforesaid Verse in his exegesis:

*"It means that Allah has not based the matter of religion on compulsion and use of force, but has based it on choice and faculties. Allah has described the proofs and evidences with regard to Unity of God with such effectuality and conclusiveness that it leaves no room for any excuse. Therefore, He asserts that after such a clarity of these proofs there should not be any reason for an Unbeliever to remain an Unbeliever, and even after all the proofs, if he does not embrace the Faith and the only course left to*

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<sup>1</sup> The Quran, 10:99.

convince him is to use force to compel him, then it is not permissible to do so in this world as the world is just a place for tests and trials, and compelling to embrace Islam by force and coercion nullifies the very objective of this test and trial. Its example is this statement of Allah, where He says: *فَمَنْ شَاءَ فَلْيُؤْمِنْ وَمَنْ شَاءَ فَلْيُكْفُرْ* ("Let him who will, believe, and let him who will, reject (it)."<sup>1</sup>); in another place Allah says: *وَلَوْ شَاءَ رَبُّكَ لَأَمَنَّ مَنْ فِي الْأَرْضِ كُلَّهُمْ جَمِيعًا أَفَأَنْتَ تُكْرِهُ النَّاسَ حَتَّى يَكُونُوا مُؤْمِنِينَ* ("If it had been your Lord's Will, they would all have believed, all who are on earth! Will you then compel mankind, against their will, to believe!"<sup>2</sup>), and in Sura Shu'ara, Allah says: *لَعَلَّكَ بَاجِعٌ نَفْسَكَ أَلَّا يَكُونُوا مُؤْمِنِينَ إِنْ نَشَأْ نُذِرْكَ عَنْهُمْ إِنْ تَبْتَغِ السَّمَاءَ أَيْدٍ فَظَلَّتْ أَغْنَاهُمْ لَهَا خَاصِعِينَ* ("It may be thou wilt kill thyself with grief, that they do not become Believers. If (such) were Our Will, We could send down to them from the sky a Sign, to which they would bend their necks in humility."<sup>3</sup>).

Imam Razi himself writes in support of this narration thus:

*"This narration is further strengthened by the fact that immediately after this, Allah has said: قَدْ تَبَيَّنَ الرُّشْدُ مِنَ الْغَيِّ ("Truth stands out clear from Error"), i.e. proofs have been manifested, arguments have been very clearly adduced, and there is only one course left open and that is compulsion and coercion which is not permitted as it is against the principle of accountability."*

No doubt, there has been much debate as to the meaning of this Verse. Some say that it has been abrogated; some others say that this ordinance concerns only the People of the Book; some say that it is confined to Ansaars only; and some have transgressed their limits and have made fun of the Word of Allah by saying that compulsion in religion is not at all a compulsion and that if a person

<sup>1</sup> The Quran, 18:29.

<sup>2</sup> The Quran, 10:99.

<sup>3</sup> The Quran, 26:3-4.

embraces Islam even under the threat of death it should never be considered that he has embraced it under compulsion. However, these different versions have remained in the books only and they have never stepped into the practical world for the past long duration of 1400 years, except for a rare instance or two which cannot form any norm. If this were to be the real teaching of Islam that people can be compelled to embrace Islam with the threat of force, then in the past 1400 years the Muslim community would have compelled people to become Muslims at least even once. Not only, has this not happened up till now but it has not been acted upon even during the blessed period of the Rightly-guided Caliphate when Islam had manifested in its fullest and real glory, and even during the sacred reign of Prophet of Allah himself which manifested the practical purport of the Quran and its teachings. On several occasions the Unbelievers came under the power and authority of the Prophet of Allah (peace be upon him) and large groups of Unbelievers came under his possession, but he never forcibly collared their necks with the fetters of Islam, and confined himself to the cleansing of the filth in their hearts and minds by means of his pure and clear teachings.

Whenever the Prophet of Allah (peace be upon him) used to send military expeditions, he instructed them not to treat the people harshly and cruelly. When he sent Hazrat Abu Musa Ash`ari and Hazrat Mu`az bin Jabal towards Yemen, he instructed them: "Treat people with kindness and not with harshness; give them glad-tidings, do not alienate them." When he entered Makkah after conquering it he freed all those Unbelievers who were thirsting for his blood by saying: "No blame on you today; go, you are all free." (Among these freed people, 2000 accompanied the Prophet in the battle of Hunain voluntarily.) `Allamma Ibn Jareer writes: "When the Prophet (peace be upon him) sent groups in the vicinity of Makkah to invite people towards



Allah, he never ordered them to wage war.” When Hazrat Khalid bin Waleed waged war against the tribe of Bani Juzayma without Prophet’s permission and committed bloodshed, the Prophet openly distanced himself from this act and paid the blood money of even the dogs of that tribe killed in the war. These are only a few examples and you cannot find even an instance in the entire life of the Prophet (peace be upon him) where he had compelled a person to embrace Islam by threatening to kill him, and it is a clear proof that the meaning of *لا إِكْرَاهَ فِي الدِّينِ* (“*There is no compulsion in religion*”) is nothing but what it conveys plainly and clearly from its wordings; otherwise, the Prophet of Allah would have acted upon it as there is no command in the Holy Quran which the Prophet has not acted upon in his life and set it as an example for others.

In this connection, a Tradition is cited which Imam Ahmed has narrated from Hazrat Anas. It is mentioned therein that once the Prophet of Allah (peace be upon him) said to a person: “Embrace Islam.” He said: “I feel some reluctance in me.” The Prophet said: “In spite of this reluctance, embrace it; Allah will eventually bestow you with good intention and sincerity.” It is strange that this Tradition is cited to prove compulsion in religion, although the Arabic word used in this Tradition is not “*Mukrahan*” but “*Kaarihan*,” meaning reluctance of the self which is synonymous with not fully prepared to do something. How does this prove that the Prophet of Allah had compelled this person to embrace Islam?

People, who believe in the abrogation of this Verse, have no other proof to prove their claim except that they cannot correlate this Verse with the ordinances of war; otherwise no true Tradition is found supporting its abrogation. Ignoring the argument that what type of proofs are required to claim abrogation of a Verse of the Holy Quran, we would just like to point out that the claim of abrogation of this Verse was invented after the Prophet’s

era; even the senior Companions of the Prophet did not know anything about this abrogation. If the people of that era had known this, then a person like Hazrat `Umar, who was well-versed in Islamic law and jurisprudence, would not have allowed his slave Asbaque to refuse to embrace Islam. The following narration of Ibn Abi Hatim is enough to disprove the claim of abrogation of this Verse:

*Asbaque says: "I was a Christian slave of Hazrat `Umar bin Khattab. He used to invite me to Islam, but I used to refuse. On this, he used to say: لا إِكْرَاهَ فِي الدِّينِ "There is no compulsion in religion." Then he used to say: "O Asbaque, if you had accepted Islam, we would have taken your assistance in the affairs of Muslims."*

The narration of Imam Ibn Jareer Tabari in this regard is a bit different from that of Imam Raazi, Ibn Katheer and others, but quoting all the narrations of the predecessors about abrogation, he gives the following decision:

*"It is evident from this that the meaning of لا إِكْرَاهَ فِي الدِّينِ ("There is no compulsion in religion") is that a person from whom Jiziya is permissible to be collected and once he pays the Jiziya and agrees to obey the Islamic government, he cannot be forced to accept the Faith. The assertion of the person who says that this Verse has been abrogated by the permission to wage war is wrong. If a person argues that what do you say about the narration of Hazrat Ibn `Abbas that "this Verse was revealed in respect of Ansaars who wanted to compel their children to accept Islam," we say that no one denies the correctness of this narration; surely this Verse was revealed in respect of a particular instance. But its decree is common and is applicable in all situations similar to this Circumstance of Revelation. According to the narration of Hazrat Ibn `Abbas and others, the people about whom this Verse was revealed had accepted the Religion of Torah before the promulgation of this decree of Islam and, therefore, Allah has forbidden to compel them to embrace Islam. But the wordings used for this forbiddance are such that they can be applied to all such religions from whose followers Jiziya can be accepted."*

Those who consider this decree to be specific to the People of the Book also cannot prove their claim from the Quran and the Sunnah. The command given in *لَا إِكْرَاهَ فِي الدِّينِ* ("There is no compulsion in religion") is quite common; just the Circumstance of Revelation does not make it specific. Otherwise, every ordinance of the Quran has to be made specific because no ordinance of the Quran can be found without a particular Circumstance of Revelation. As for the opinion that the Verse pertaining to Jiziya has made it specific, this Verse of Jiziya itself, in spite of being specific to the People of the Book, has been determined by the eminent and prominent jurists to be common to include Unbelievers and polytheists. Although a multitude of Ahnaaf (those belonging to the Hanafi School of Thought) exclude the Arab Polytheists (who had become extinct well before the revelation of the Verse of Jiziya) from this common ordinance, Imam Maalik, Abu Yousuf, Imam Awza'yee, and others have included even the idol-worshippers of the Arab in this sphere of mercy. Muslims have acted upon this opinion from the very beginning till now, and have provided protection to all kinds of Unbelievers after accepting Jiziya from them and declaring them Zimmies.

When the ordinance in the Verse of Jiziya itself, in spite of the words making it specific, has been declared to be common, then how can this Verse, without any proof from the Quran and the Sunnah, make ordinance of another Verse specific when even its wordings are not specific but common. Accepting Jiziya from all kinds of Unbelievers in itself is the proof that no person whether he is from the People of the Book or otherwise, can be compelled to embrace-Islam because it has been established that payment of Jiziya makes compulsion nonexistent.

## FUNDAMENTAL PRINCIPLE OF PROPAGATION

It is a fact that the subject matter in the Verses pertaining to war or the Verse of Jiziya is not in conflict with the religious freedom granted in *لَا إِكْرَاهَ فِي الدِّينِ* ("There is no compulsion in religion,") as has been misunderstood by some people; rather it only brings this freedom, which in the beginning had been granted unconditionally, under a regulation and a principle. In the beginning when the Muslims were weak and they did not have the power to discharge the services which Allah wanted to take from them in the capacity of *أُمَّةٌ وَسَطًا* ("a Community justly balanced") and *خَيْرُ أُمَّةٍ* ("best of people") they did not use to just say *لَكُمْ دِينُكُمْ وَلِيَ دِينِ* ("to be you your Religion and to me mine") but used to also say *لَنَا أَعْمَالُنَا وَلَكُمْ أَعْمَالُكُمْ* ("we are responsible for our doings and you are for yours"). They did not have enough power to forcibly eradicate ethical evils, the mischief and persecution prevalent in the world. Therefore, the work of "enjoining the good and forbidding the wrong" was being carried out in just one way, i.e. as the Prophet of Allah (peace be upon him) and his followers used to invite people to believe in the Unity of God, prophethood of Muhammad (peace be upon him), the Day of Judgment, and establishment of Prayers by word of mouth, similarly they also used to confine themselves to forbid and cultivate in people detestation towards fornication, theft, murder, infanticide, untruth, hypocrisy, highway robbery, hindering the Path of Allah, etc. by speech and word of mouth only. However, when Muslims came out of this weakness and helplessness and they had enough power to accomplish their mission, then, although this principle of freedom of religion that no one will be compelled to accept Islam remained in place, it was decided and declared that wherever the Muslims have the power, there they will not allow people to commit acts of evil, bad deeds, mischief and persecution. Hence, in that

situation the sphere of activity of "*enjoining the good*" got separated from the sphere of "*forbidding the wrong*." In the activities pertaining to "*forbidding the wrong*," along with propagation the sword also got associated with it, and it took up the task of clearing the world of mischief and persecution, whether the world was willing or unwilling for it. However, in the sphere of activities pertaining to "*enjoining the right*," the principle of لا إكراه في الدين ("There is no compulsion in religion") and مَا أَنتَ عَلَيْهِم بِجَبَّارٍ ("you are not one to compel them by force") remained.

We have already mentioned that Islam has two characteristics. Under one characteristic, it is the Law of Allah for the world; in its other characteristic, it is a call and invitation towards piety and fear and consciousness of Allah. The objective of the first characteristic is to establish peace in the world, protect it from annihilation from the hands of the tyrants and the unruly, and constrain people to obey the limits of ethics and humanity, for which use of force is an accepted necessity. But, under its other characteristic it purifies the hearts and minds, sanctifies the souls, and by purging the bestial impurities in man elevates him to become a loftier human being, for which the light of guidance is required and not the sharp edge of the sword; surrender of the hearts and minds is required and not manacling the hands and feet; and imprisonment of the souls is required and not the confinement of the bodies. If someone repeats the Islamic article of Faith لا إِلَهَ إِلَّا اللَّهُ ("There is no god but Allah") under the threat of death and his heart still remains a temple of an entity other than Allah, then without the proclamation and confirmation of the heart and mind, his proclamation of Faith outwardly by his tongue and his coming into the fold of Islam thus will be of no use.

Leave aside the Religion of Truth, which is far more important and eminent, even those worldly movements

whose purpose is only accomplishment of worldly objectives cannot rely on the followers who just pay lip service to them and do not support them wholeheartedly. With insincere, false and halfhearted followers, no movement in the world has ever succeeded, and surely, taking with it just lumps of flesh and bones which are bereft of souls of sincerity and truth, no movement dares to step out in the open world of confrontation and competition and hope to reach the goals of success and prosperity. Just ponder, the Religion which has in its view not only the success of the world, but also the success and prosperity of the Hereafter; the Religion which regards the belief and intention as the foundation of action; the Religion which regards worthless any action without the spirit of sincerity and the truth; the Religion which has risen with the loftiest movement for the reformation of the entire humanity, and which movement has achieved such a success in the world that no other movement has ever achieved, would have entrusted the work of its propagation to a deaf and dumb sword. Or would it be possible that it would have ignored the traits of truth and sincerity and contented itself with obtaining submission by use of force and compulsion; or would it have got contented with such followers whose hearts are bereft of fear of Allah but are full of fear of sword; or would it have given any weight and importance to such cowards and faint-hearted persons who, just to save their life and limb, will embrace any belief which they do not consider to be true? And if this were to be the case, then would it be possible that it would have achieved such fantastic successes as actually it has achieved?

Who understands better the nature of man than his Creator Himself? In His Book of Wisdom, the Holy Quran, Allah has again and again explained this matter in a very eloquent manner and has shown the correct, best and effective way to conquer the domain of the heart and mind. Hence, in one place it is stated:

وَلَا تَسْتَوِ الْحَسَنَةُ وَلَا السَّيِّئَةُ ادْفَعْ بِالَّتِي هِيَ أَحْسَنُ فَإِذَا الَّذِي بَيْنَكَ  
وَبَيْنَهُ عَدَاوَةٌ كَأَنَّهُ وَلِيٌّ حَمِيمٌ ﴿٣٤﴾

(هم السجدة: 34)

*"Nor can Goodness and Evil be equal. Repel (Evil) with what is better; then will he between whom and you was hatred become as it were your friend and intimate!"*

(The Quran, 41:34)

In another place, it is stated:

فَبِمَا رَحْمَةٍ مِنَ اللَّهِ لِنْتَ لَهُمْ وَلَوْ كُنْتَ فَظًّا غَلِيظَ الْقَلْبِ لَانْفَضُّوا مِنْ  
حَوْلِكَ ۚ

(آل عمران: 159)

*"It is part of the Mercy of Allah that you do deal gently with them. Were you severe or harsh-hearted, they would have broken away from about you."*

(The Quran, 3:159)

In another place the method of propagation has been described thus:

ادْعُ إِلَى سَبِيلِ رَبِّكَ بِالْحُكْمِ وَالْمَوْعِظَةِ الْحَسَنَةِ وَجَادِلْهُمْ بِالَّتِي هِيَ أَحْسَنُ  
(النحل: 125)

*"Invite (all) to the Way of your Lord with wisdom and beautiful preaching; and argue with them in ways that are best and most gracious."*

(The Quran, 16:125)

This gracious manner of preaching and arguing has been stressed so much that it has been instructed not to badmouth and revile the leaders and gods of the Unbelievers:

وَلَا تَسُبُّوا الَّذِينَ يَدْعُونَ مِنْ دُونِ اللَّهِ فَيَسُبُّوا اللَّهَ عَدْوًا بِغَيْرِ عِلْمٍ

(الأنعام: 108)

*"Revile not you those whom they call upon besides Allah, lest they out of spite revile Allah in their ignorance."*

(The Quran, 6:108)

## SECRET OF GUIDANCE AND MISGUIDANCE

The Holy Quran has explained this very fine point on various occasions that if Allah wants, He can compel all his servants to accept the Faith, but He does not want such



Faith which is as ingrained in the nature of man as natural desires and feelings. He had already with Him creatures that are fully faithful, worshipful and obedient to Him, whose very nature is *يَفْعَلُونَ مَا يُؤْمَرُونَ* ("they do, all that they are commanded").<sup>1</sup> But to have the real pleasure of worship, Allah wanted a creation which is not coerced and compelled by any kind of force to recognize Him, believe in Him and worship and obey Him; rather He wanted it to recognize Him by its own intellect; to find Him by its own quests; to worship Him by its own free will; and to obey and surrender to Him and to His commands in spite of having the power to disobey. For this very purpose, Allah created man and gave him freedom for a fixed period of time in the radiating light of intellect and wisdom; gave him the liberty of *فَمَنْ شَاءَ فَلْيُؤْمِنْ وَمَنْ شَاءَ فَلْيُكْفُرْ* ("let him who will, believe, and let him who will, reject")<sup>2</sup>; sent to him Messengers, one after the other, so that his own kind could show him the Path of Truth by distinguishing it from the Path of Evil, thus not leaving any room for him to say that he was in the dark; and then fixed a Day of Judgment when He would bestow unimaginable rewards on those who had recognized Him by their own intellect and had adopted by their own free will the Straight Path shown by Him, and fully obeyed Him, not with any compulsion, but with a sense of duty and as a demand of their servility; and punish those with grievous chastisement who had gone astray in spite of very clear signs, had refused to accept the Message sent by Him, and had disobeyed Him deviating from the duty of servitude.

Look, how sagaciously the secret behind this fact has been bared:

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<sup>1</sup> The Quran, 16:50.

<sup>2</sup> The Quran, 18:29.



وَلَوْ شَاءَ رَبُّكَ لَجَعَلَ النَّاسَ أُمَّةً وَاحِدَةً وَلَا يَذَرُ الْوَنَ مُخْتَلِفِينَ ۖ إِلَّا مَن رَّحِمَ رَبُّكَ ۚ وَلِذَلِكَ خَلَقَهُمْ ۖ وَتَمَّتْ كَلِمَةُ رَبِّكَ لَا أَمْلَأَنَّ جَهَنَّمَ مِنَ الْجِنَّةِ وَالنَّاسِ أَجْمَعِينَ ﴿١١٨﴾

(حود: 118-119)

*"If your Lord had so willed, He could have made mankind one People; but they will not cease to differ, except those on whom your Lord has bestowed His Mercy; and for this did He create them; and the Word of your Lord shall be fulfilled: 'I will fill Hell with jinns and men all together'."*

(The Quran, 11:118-119)

In other places of the Quran, this secret has been manifested in different ways; hence in one place it is stated:

وَلَوْ شَاءَ رَبُّكَ لَأَمَنَّ مِنَ فِي الْأَرْضِ كُلَّهُمْ جَمِيعًا (يونس: 99)

*"If it had been your Lord's Will, they would all have believed – all who are on earth."*

(The Quran, 10:99)

In another place, it is mentioned:

وَلَوْ شَاءَ اللَّهُ مَا أَشْرَكُوا ۚ (الأنعام: 107)

*"If it had been Allah's Will, they would not have taken false gods."*

(The Quran, 6:107)

It is explained in another place:

إِن لَّمْأَنْزَلْ عَلَيْهِمْ مِنَ السَّمَاءِ آيَةً فَظَلَّتْ أَعْنَاقُهُمْ لَهَا خَاضِعِينَ ﴿٤﴾

(الشعراء: 4)

*"If (such) were Our Will, We could send down to them from the sky a Sign, to which they would bend their necks in humility."*

(The Quran, 26:4)

It is stressed in yet another place:

وَمَا كَانَ لِنَفْسٍ أَنْ تُؤْمِنَ إِلَّا بِإِذْنِ اللَّهِ ۖ وَيَجْعَلُ اللَّهُ رِجْسًا عَلَى الَّذِينَ لَا يَعْقِلُونَ ﴿١٠٠﴾

(يونس: 100)

*"No soul can believe, except by the Will of Allah, and He will place abomination on those who will not understand."*

(The Quran, 10:100)

In another place, it is very clearly stated:

إِنَّكَ لَا تَهْدِي مَنْ أَحْبَبْتَ وَلَكِنَّ اللَّهَ يَهْدِي مَنْ يَشَاءُ وَهُوَ أَعْلَمُ بِالْمُهْتَدِينَ ﴿٥٦﴾

(القلم: ٥٦)

*"It is true you will not be able to guide every one whom you love; but Allah guides those whom He will and He knows best those who receive guidance."* (The Quran, 28:56)

Hence, when the Creator, Cherisher and Almighty Lord of the World Himself does not want to compel his servants to obey Him, and rather loves the utmost their servitude and obedience rendered out of their free will, then what right a servant of Allah has over other servants like him to compel them to opt for His obedience and servitude and force them to present before Allah, the Most High, a worthless and uninspired Faith. Therefore, Allah has explained to the Prophet of Islam (peace be upon him) repeatedly that there is no place for compulsion in religion and that his responsibility is just to convey the Message of Allah to the people:

وَمَا أَنْتَ عَلَيْهِمْ بِجَبَّارٍ ۖ فَذَكِّرْ بِالْقُرْآنِ مَنْ يَخَافُ وَعِيدِ ﴿٤٥﴾

*"You are not one to compel them by force. So admonish with the Quran such as fear My Warning!"*

(The Quran: 50:45)

فَذَكِّرْهُمْ إِنَّمَا أَنْتَ مُذَكِّرٌ ۚ لَسْتَ عَلَيْهِمْ بِمُصَيِّرٍ ﴿٢٢﴾

(الغاشية: 21-22)

*"Therefore, you do remind, for you are one to remind. You are not at all a warder over them."* (The Quran, 88:21-22)

أَفَأَنْتَ تُكْرِهُ النَّاسَ حَتَّى يَكُونُوا مُؤْمِنِينَ ﴿٩٩﴾

(يونس: 99)

*"Will you then compel mankind, against their will, to believe?"*

(The Quran, 10:99)

لَيْسَ عَلَيْكَ هُدَاهُمْ وَلَكِنَّ اللَّهَ يَهْدِي مَنْ يَشَاءُ ﴿٢٧٢﴾

(البقرة: 272)

*"It is not for you to guide them to the right path. But Allah guides to the right path whom He pleases."*

(The Quran, 2:272)

فَأْتِمَّا عَلَيْكَ الْبَلْغُ وَعَلَيْتَا الْحِسَابُ ﴿٤٠﴾

(الرعد: 40)

*"Your duty is make (the Message) reach them; it is Our part to call them to account."*  
*(The Quran, 13:40)*

## ROLE OF SWORD IN THE PROPAGATION OF ISLAM

It is abundantly clear now from the above discussion that Islam does not compel any person to have faith in its truth; rather, after clearly distinguishing the right path from the wrong one in the light of sound argumentations and proofs, gives the liberty to everyone to choose either the wrong path and fall into the deep pit of disaster and catastrophe or choose the right path and enjoy permanent and everlasting success and prosperity. However, before ending this discussion, it is necessary to mention here that the sword has also an indirect link with the propagation of Islam. No doubt, as far as the scope of the propagation of the Religion of Allah is concerned, sword has nothing to do with it. But along with propagation there are other factors which help the propagation of Islam. These factors are not delinked from the impact of sword.

It is usually observed that when man leads a wayward life and is not restrained by any ethical regulations in pursuing his carnal desires, he begins to enjoy his miserable, but outwardly pleasurable life, and he cannot be made to give up these pleasures willingly. However strongly he is preached, using the most powerful arguments, proofs, exhortations and admonitions to make him understand the difference between the lawful and the unlawful, the good and the evil, and however strongly he is appealed to obey the restrictions imposed by the ethical limits he shows no inclination to reform himself. First of all, because of the continuous evil-mongering his intellect and intuition is so thickly veiled that this kind of ethical teaching will not have any effect on him; and if at all his conscience has a little bit of life left in it, it will not have much power and control over his self to make him willingly

accept the truth just because it is the truth and give up all those pleasures available to him in his wayward life. Contrary to this, if the ethical teachings, along with preaching and exhortation, has the backing of political and judicial power, and along with exposing the evil as evil that force is also used which has the power to eradicate it, then gradually the inclination to become righteous begins to develop, complying with the ethical limits and distinguishing the good from the bad slowly begin to progress, and eventually the very person, who once did not even want to listen to this righteous teaching in his wayward life, would allow it to enter his heart and reside therein.

Now just for a moment, imagine a society where no law is enforceable; every one of its member is not bound to comply with any kind of ethical and moral limits; robs whomsoever he finds weak and subjugated; murders at will the one with whom he has enmity; whatever he needs he acquires it either by theft or loot; whatever may be his desires he fulfils it by any means; he does not discriminate between the lawful and the unlawful; his mind is bereft of any ideation of the rights and the duties; he will just have in his view his desires and the potential means to fulfil and indulge in them. In this situation, if a reformer were to stand up and teach the society the difference between the lawful and the unlawful; fix the limits of permissible and impermissible; establish the right and wrong in the goals of life and the good and the bad ways of achieving them; prohibits theft, unlawful earnings, murder, fornication and obscenity; and compiles a detailed statute of ethics, for the promulgation of which he does not have any power except the power of preaching, exhortation and presentation of argumentations and proofs, can it be expected that this wayward society would readily accept these constraints? Would it willingly comply with the laws surrendering to the compelling reasoning and arguments of the reformer?

Would it be so impressed by his heartfelt exhortations that it would give up voluntarily the pleasures and enjoyment that it gets out of its wayward life? Every person who is well-versed with human nature will answer all these questions in the negative, because the number of such righteous persons is very small who opt for righteousness just because it is right and virtuous and give up the evil just because they have fully comprehended it to be evil.

However, if we ask these very same questions in the situation where the reformer is not just a preacher of ethics, but also a ruler and a man of authority and establishes a regular government and with that authority and power curbs the evil and waywardness in the society, then surely the answer to these questions will change from negative to positive and everyone will vouch for its success.

The situation is nearly similar with regard to the propagation of Islam. If Islam were to be merely a combination of a few beliefs and if there were to be no demand except to believe in the Oneness of Allah, in the truth of the Prophet-hood, in the Day of Judgment and Angels, then no occasion would have arisen for any quarrel with the evil forces. However, it is a fact that Islam is not only a belief but also a Law; a Law which wants to tighten man's entire practical life with the constraints of dos and don'ts. Hence, it cannot manage with mere preaching and exhortation, rather along with the point of the tongue it has to use the edge of the sword too. The unruly person has not that much averseness to the Islamic beliefs than he has with the compliance of its laws and regulations. He wants to commit theft and Islam threatens him with severance of his hand; he wants to fornicate and Islam gives him the punishment of lashing; he wants to indulge in usury and Islam challenges him with *فَاذْنُوا بِحَرْبٍ مِّنَ اللَّهِ وَرَسُولِهِ* ("take notice of war from Allah and His Messenger"<sup>1</sup>); he wants

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<sup>1</sup> The Quran, 2:279.

to fulfil his desires going out of the limits of the lawful and the unlawful and Islam does not permit him to do so outside these limits. Hence the very nature of a covetous and lascivious person hates this, and the mirror of its heart and mind gets so clouded by his continuous evil-mongering that it will not be able to receive the light of Islamic truths any more. This is the reason that even though, in Makkah, the Prophet of Allah (peace be upon him) invited the Arabs to accept Islam for 13 long years; adopted the best and the most effective methods possible of preaching and exhortation; gave solid and clearer argumentations and proofs; enlivened the hearts and minds with his eloquence and power of oratory; performed amazing miracles; presented the best model of righteousness by his righteous life and ethics; and left no recourse which could be of benefit for the propagation of the Truth, but his people, in spite of his truthfulness being as clear and bright as the sun, refused to heed his call. The Truth had manifested before them and they had understood very clearly that the path towards which the Messenger of Allah has been calling them is the Straight Path. But, in spite of all these, the only thing that was preventing them to take this straight path was that they did not want to give up those pleasures and enjoyments which they enjoyed in their wayward life of unbelief. However, after the not so successful preaching and exhortation, when the Messenger of Islam took the sword in his hand and by declaring, "*Beware! All kinds of ancestral preeminence, every blood claim and every claim of wealth and property are under my these two feet,*"<sup>1</sup> completely eradicated the ancestral pre-eminences; broke all the customary idols of power and eminence; established

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<sup>1</sup> That is, the Prophet of Allah declared that every kind of ancestral preeminence and every blood claim based on which a tribe or a family has a claim to take revenge on another tribe or family, and every claim of wealth and property which has been established on the basis of false and ignorant customs were invalid and would not be allowed to raise their heads any more.

a disciplined and well-organized government; by forcibly promulgating the ethical laws curbed the freedom to sin and evil-mongering whose enjoyments had rendered them stupefied; and created that peaceful environment which is always necessary for the cultivation and growth of ethical values and human virtues, then slowly the rust of evil and mischief began to wear off, the corrupt and spoilt substances exiled by themselves from their nature, the impurities of the souls were cleansed; not only that the veil covering the eyes fell off and the Truth clearly manifested, and rather that stiffness of the necks and that haughtiness of the heads vanished which prevents man from bowing before the Truth when it manifests.

It was because of this same reason alone that the other nations too embraced Islam as rapidly as the Arabs did and within a century nearly one-fourth of the world became Muslims. The sword of Islam tore off the veils that covered the hearts and minds of the people; cleaned that environment in which no ethical teaching could survive; overthrew those governments that were enemies of the Truth and supporters of the Untruth; obliterated those evils which had exiled the virtues from human hearts; promulgated those just and ethical laws that took man out of bestiality and helped him to become a human being; and presented Islam as an embodiment of practical life and proved to the entire world that for the ethical, spiritual and material prosperity of man there is no other better way than the practical way of Islam.

Therefore, as it is wrong to say that Islam compels people to become Muslims with the force of a sword, so also it is wrong to say that the sword does not play any role at all in the spread of Islam. The reality is in between these two, and that reality is that the sword and the propagation play equal parts in the spread of Islam as it does in the establishment of every civilization. The work of propagation is to sow the seeds and the task of the sword is

to plough. First, the sword softens the earth so that it is made capable of cultivating the seeds, and then the propagation sows the seeds and irrigates them so that the desired produce and fruits could be reaped. We do not find in the entire history of the world any sign of a civilization for the establishment of which these two things have not been used. Leave alone any particular kind of civilization establishment of civilization itself is not possible till such time when the ploughing and sowing do not play their part. Anyone who is conversant with human nature cannot be ignorant of the fact that during the intellectual and ethical reformation of communities and nations a time certainly comes when it becomes necessary to address the body before addressing the heart and the soul.

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## CHAPTER- V

# ISLAMIC LAWS OF WAR AND PEACE

In the previous chapters what has been discussed and described pertains to only the ethical aspect of the war. Now, we would like to describe how Islam has greatly reformed the practical aspect of the war.

The perfection or imperfection of a thing is judged based on two things; one is its objective and the other is the means that are adopted to achieve that objective. If the objective in itself is detestable, then by however noble means it is achieved, it remains detestable. If the objective in itself is very noble and loftier, but the means to achieve it are lowly and ignoble then the nobility of the objective itself gets soiled. For example, if a person makes looking after the widows and educating the orphans his objective, but for this noble and virtuous cause raises money through theft and robbery, then although his objective is very noble and virtuous, but in the sight of law and ethics he is considered a criminal just like a common thief and robber is considered a criminal. As against this, if a person wants to accumulate wealth by cheating and swindling people, and to do so and to gain the confidence of the people adopts the method of imparting religious education sitting in a mosque, extensively delivers lectures on morality and good behaviour, and spends most of his time ostensibly in the remembrance of Allah, these deeds, although very pious, not only lose their worth because of the evil objective for which he is practicing them, but his crime becomes even more severe because of this deceitful religiosity.

This is the position of war too. If the objective of the war is to usurp the independence and freedom of weaker nations, rob the wealth and natural resources of the countries, and deprive the servants of Allah of their lawful

rights, then such a war even if waged with utmost discipline, giving due regard to the protection of civilians, safety of the wounded, sanctity of the dead and respect of the covenantees, and however much there is restraint from looting, burning, destruction, massacre and disgracing the honour and dignity of the masses, would be, in reality, a tyrannical war and this discipline and self-restraint would not make any difference in its characteristic; at the most it would not be a worst kind of tyranny, just a tolerable tyranny. Similarly, if the objective of the war is very noble, for example, if it is waged for the protection of lawful rights or eradication of mischief and persecution, but its methods are cruel, no regard is given for moral and ethical values, and the real purpose of the war is just to obliterate the enemy and afflict him with pain and torture to quench the thirst of revenge, then such a war is not in the path of Truth, and those who fight such a war, even though fighting for a just cause, would land themselves into the category of tyrants.

Hence, the definition of a purely just and lawful war is that its objective and the methods of achieving its objective should both be chaste, noble and lofty. Whatever has been described so far about the Islamic teachings of war proves only the chastity, nobility and loftiness of its objective. Now the other part of the discussion still remains. In this chapter, we will study and investigate to see how far the Islamic war meets the standards of nobility and civilization in the ways and means it adopts in achieving its objective.

Before describing in detail the Islamic way of war, it seems appropriate to study briefly the practice of war followed by the non-Muslim nations of the pre-Islamic ancient era. By this study we will be able to appreciate better the worth and importance of the reformative work that Islam has carried out in this regard.

## ARABIAN MODE OF WARFARE DURING THE PRE-ISLAMIC ERA

In Arabia war was considered a national vocation. Dearth of employment opportunities, scarcity of necessities of life, and lack of collective and social discipline and regulation had so firmly established the militant disposition in the Arabs that they considered killing, bloodshed and looting as not only their singularities but also used to reckon it a matter of dignity and pride. Probably, in the beginning the war was waged for food or water or for the right to graze the animals in pastures or to take revenge. But because of centuries of involvement in killings and militant activities they had developed such a fondness for bloodshed that it had become a purpose unto itself; they no more required any purpose or reason for committing bloodshed. Along with this, callousness, cruelty, vengeance, malice, brutality, savagery and all other such particularities manifested in their character which naturally take root and grow because of leading such a life. The animosities between tribes and families were transmitted from generations to generations; the rival tribes were used to be completely obliterated; to quench the thirst of revenge, savage ways and methods of torture and disgrace were routinely adopted; and most often just for show of pride and bravery streams of human blood were shed without any qualms.

### 1. Arabian Concept of War

We have only two resources to know about the conditions prevalent in the ancient Arabia. One is those stories which are known as "*Ayyam al-Arab*"<sup>1</sup> (Days of

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<sup>1</sup> One of the early Arabian epic genres, describing the wars among and within the tribes and the adventures of the heroes, the *Ayyam al-Arab* was composed by the Bedouins of Arabia during the fifth through seventh centuries. Individual chronicles are tales in prose, interspersed with verses attributed to the heroes.

Arabs) and the other is the literary works of the Arab poets in which they draw true pictures of their society, civilization, activities, inclinations and biases. Like the Persian poetry, their poetry was not a collection of hyperbole and refined perceptions and ideas; rather whatever they saw and observed in their surroundings they used to express it in their language forthrightly. Therefore, their poetry was not just poetry but was also a complete picture of their national way of life. What was their conception of war; how did they perceive it; what were their ways of waging war; how did they treat their enemies; what were the stimulants and incentives which incited them to wage war; for what motives and objectives they used to wage war? – We can find answers to all these questions in their poetry. The idioms, the metaphors, and the similes they used to express their thoughts and ideas about war draw a very correct and clear picture of their conception of war. As an example, we quote here a few words, phrases, metaphors and similes:

حَرْب ("Harb") is a common word used for war. Philologically its actual meaning is anger.

تَحْرِيْب ("Tahreeb") means enraging someone, and sharpening the spear.

حَرْب ("Haraba") means looting someone's wealth and property.

حَرْبَة ("Hareebah") the looted wealth or property on which a person sustains himself.

مَحْرُوب and حَرْب ("Mahroob" and "Hareeb") means the person whose wealth and property have been looted.

اِحْرَاب ("Ihraab") means to guide someone to loot the wealth of the enemy.

روع ("Raw") is commonly used to denote battle. Its actual meaning is fear and fright; as if war has been named after a very frightening thing. Widak bin Tamseel al-Mazani says:

مقاديم وصالون في الروع خطوهم

*"They are those who march forward and walk side by side during the dangers of war."*

وغي ("Wagha") is a very popular name for war. Its lexical meaning is uproar and clamour. A poet says:

ما زال معروفا لمرة في الوغي      عل القنا وعلهم إنثا لها

*"This attribute of the tribe of Banu Murrah is well-known that they quench the thirst of their spears repeatedly with the blood of the enemies, and it is obligatory on them to quench their (spears)thirst at least once."*

شر ("Sharr"), its actual meaning is evil, but it is used metaphorically to denote war. A poet praises his praiseworthy tribe thus:

قوم اذا الشرا بدى تاجذيه لهم      طاروا اليه زرافات ووحدا

*"They are such a nation that when the war tries to frighten them by bearing its fangs they run out to confront it individually and group by group."*

كربة ("Kareehah"), this is also one of the names of the war, and its actual meaning is hardship, disaster, and calamity. The poet in the praise of his laudable friend says:

صعب الكربة لايرام جنبه      ماضى العزيمة كالحسام المصقل

*He is dogged in the hardships of war; none dare come near him;*

*He is as resolute in his determination as a sharp sword.*

هياج ("Hiyaj") means outburst of rage, fury, commotion, etc. and metaphorically it is used to denote war too. A poet says:

كل امرئ يجرى الى      يوم الهياج بما استعدا

*"Everyone goes on the day of battle with the equipment that he has kept ready."*

مغضبة ("Maghdabah"): Its actual meaning is anger, rage, fury, etc. and it is commonly used for denoting war. Ibn `Antama says:

ان تدع زيد بنى ذمل لمغضبة نغضب لزرة ان الفضل محسوب

*"If Zaid calls Bani Zuhail to wage war, we will fight along with Bani Zar'a as prestige is favoured."*

The Arab poets have compared the war with the rams ramming each other; hence for this they use the word نطاح ("Nattah"). Sa`d bin Maalik says:

والكر بعد الفراد كره التقدّم والنطاح

*"To turn around and attack after fleeing is better when it is not desirable to suddenly advance and ram the enemy."*

War has been compared with the chest of the camel, because when a camel places his chest on a thing it gets pulverized, and also because camel is a very vengeful and malicious animal. A poet says:

أنختم علينا كلل الحرب مرة فنحن منيغوما عليكم بكلل

*"You have placed the chest of war on us once, and therefore very soon we are going to place its chest on you too."*

War has also been compared with a mill, because it also mills the enemy as if into flour. Abu al-Ghoul Tahvi says:

فوارس لا يملئون المنايا اذا دارت رخی الحرب الزبون

*"Those are such horsemen that are not weary of death when the mill of war runs in full force."*

`Amr bin Kulsum says:

متى ننقل إلى قوم رحانا يكونوا في اللقاء لها طحيننا

*"When we take our mill towards a nation, it becomes its flour in the battle."*

The metaphor of ("Dayeerah") meaning circle or range was also in use to denote war. `Antra bin Shaddad `Abasi says:

ولقد خشيتُ بان اموتُ ولم تكن للحرب دائرة على ابني ضمضم

*"I fear that I would die and both the sons of Dhamdham would never come in the range of the battle."*

War has also been extensively compared with fire, because it also burns the enemy like the fire. Haris bin Hilza says:

ماجزعنا تحت عجلجة اذا ولّوا شللاً واذا تلظى الصلا

*"We did not get disturbed in the dust when the horsemen fled after getting scattered and when the fire of war burnt furiously."*

Sa'd bin Malik says:

من صد عن نيرانها فانا ابن القيس لا يراجع

*"If any one wishes to turn back from the fire of war he could do so, but I, son of Qais, will not retreat."*

Bishama bin Uzair says:

قومي بنو الحرب العوان بجمعهم والمشرقية والقنا اشعالها

*"My people are all warriors of endless war and they have deadly Mushrifi swords and spears as fuel to kindle the fire of war."*

Ab al-Ghoul Tahvi says:

ولا تثنى بسالتهم وان هم صلوا بالحرب حيناً بعد حين

*"There is no decrease in their bravery and chivalry, although they jump into the fire of war again and again."*

From all these metaphors, similes and phrases, it is clear that the Arabs viewed war as an activity in which there should be looting, uproar, clamour, fury, rage, and the party against which it is waged should be pulverized, set ablaze, obliterated, and such hardships and miseries should be inflicted upon it that just thinking of war should bring fear and jitter to it. The bestiality of the rival warriors in their concept was that of an enraged ram that rams his opponent. In this kind of war surely there is a sterling quality of bravery and courage, but there is not an iota of ethical loftiness and human nobility.

## 2. Effects of Warfare on the Character of Arabs

The aforesaid kind of warfare was very appealing to the hearts and minds of the Arabs. They generally believed that if a person dies in his bed, his soul exits from his nose, and if he dies while fighting in a battlefield, his soul exits from his wound. Every Arab desired that his soul should exit from the wound, because they considered exit of soul from nose very disgraceful.

The Arab poets take pride that in their society no body dies a "nosy death," i.e. a disgraced and humiliating death. Hence, a poet boasting of his national vainglories says:

ومامات مناسيد حتف انفه

*"Not even one of our leaders has died a nosy death."*

The moment a call for war was heard, it was incumbent in the Arab society to take up arms and scramble, and it was forbidden to ask why and for which purpose the war was being waged. Whatever be the purpose of war, it was considered cowardice and unmanly to desist from it. If any people were to show this kind of cowardice, the Arabs expressed great shame and ignominy over it; a poet says:

لايسألون اخامم حين يندبهم في النائبات على ما قال برمانا

*"Banu Zamaan, when called upon by its any member in distress, jumps into the battlefield without asking the reason for the call."*

لكن قومي وان كانوا ذوى عدد ليسوا من الشر في شيء وان هانا

*"But my nation, in spite of it being large in numbers, is such that it does not have any concern with the war even if it happened to be a small encounter."*

فليت لي بهم قومًا اذركبوا . شدوا الاغارة فرسانًا وركبانا

*"I wish that, instead of them, I had belonged to a nation that, riding on horses and camels, would indulge in plenty of warfare and bloodshed."*

Another poet boasts of the vainglories of his nation thus:

اني لمن معشر أفتى اوائلهم قيل الكماة الا اين المحامونا



*"I am from the nation whose braves laid down their lives just on a chivalrous call: 'Yea! Where are the protectors of the genealogy?'"*

The Arab literature of the pre-Islamic era is full of this kind of sentiments, a study of which tells that the Arabs used to consider warfare a very glorious thing, and in their sight bloodshed was a very meritorious work.

### 3. Motives of War

(i) *Passion for Booty*: One of the motives which instigated Arabs for this dangerous work was a desire and passion to acquire booty. The first and foremost desire that rose in the heart of an Arab when he used to take up arms was to get possession of more and more booties and many slaves and slave-girls. The wealth acquired by honest labour or trade, in his sight, was ignominious and for him the real glory was in the acquisition of that "chaste" wealth which he could loot and bring in from the battlefield. Day and night, different tribes used to raid one another for the sole purpose of looting and bringing in sheep, camels, slaves, slave-girls and other kinds of wealth, and this is the passion and desire which used to instigate them to wage war. A poet describes his passion for booty thus:

فلئن بقيتُ لأرحلنَّ بغزوة      تحوى الفنائم أويموت كريم

*"If I were to live, I would participate in a war from which I could gather a lot of booty or die a noble death."*

Another poet in the praise of his tribe says that in the excitement of looting it does not spare even its own members:

وكن اذا اغرن على جناب      واعوزمن نهب حيث كانا

*"When our horses plunder the tribe of Janaab and do not get any booty there, then they"*

اغرن من الضباب على حلول      وضبة انه من حان حانا

*"Attack Dhabbab and Dhabba when they are in their homes, and whoever dies, dies; they do not care much;"*

واحيانا على بكر آخينا اذا مالهم نجدلا اخانا

*"And sometimes Bakr attack their own brethren when they do not find anyone other than their own brethren for looting and plundering."*

Whenever a tribe ventured out to wage war, its women used to put their men folk on oath that they would not return without the booty; hence `Amr bin Kulsum says:

اخذن على يعولتهن عهدا اذا لقوا كتاب معلمين

*"They have taken a vow from their husbands that when they encounter enemy's army with the badges of bravery (on their breasts);*

لكي يسلبن افراسا وبهضا واسرى في الحبال مقرنينا

*"They should return with horses and sharpened swords and bring with them chained slaves and slave-girls."*

The very same poet, in another place, expressing his pride says:

فأبوا بالنهب وبالسيابا وابنا بالملوك مصفدينا

*"They returned with looted wealth and slaves and slave-girls, and we returned with chained kings."*

In the battle of Tahlaaq al-Lamam, mentioning the victory gained by the tribe of Tarfa, he says:

يوم تُبدي البيض عن أسوقها وتلف الخيل افواج النعم

*"That day when the shining swords were bearing their shanks and the horsemen were gathering herd after herd of camels."*

Zuhair, describing the incidents of victory over Aal-e-Rabee`ya, says:

وسيبنا من تغلب كل بيضا ءرقود الضحى برود الرضا

*"We looted and brought all the white-coloured girls of Taghlab who sleep till the forenoon, and whose saliva gives coolness when sucked."*

The particularity of the victory gained by Bani Shaiban over Bani Kalb on the day of Mashalan is described by a Shaiban poet thus:

عيشة ولّى اجمعهم فتتابعوا      فصارالينا نهبه وعوانسه

*"On that night their army fled and kept on fleeing;  
then their wealth and their tall virgins fell into our  
possession."*

Often times, it so happened that when an army used to set forth to attack a tribe, many other avaricious persons used to accompany it just to participate in the looting. Haris bin Hallaza, describing the attack of Nu'man bin Munzir on a tribe, says:

فنادت له قراضبة من      كل حى كانهم القاء

*"To help him all the hungry looters from every tribe  
gathered, as if they were vultures."*

Further, he says:

ثم ملنا على تميم فاحرمنا      وفيها بنات حرماء

*"Then we attacked Bani Tameem, and in the prohibited  
month we reached them and enslaved their daughters."*

This looting and plundering was the foremost objective of the Arabian warfare, and the enlightened Arabs considered that war useless and fruitless which did not result in acquisition of any booty. Aksam bin Saifi, who was the wisest and the most sagacious and experienced person of his tribe, used to say:

اهناء الظفر كثرة الامرئى وخير الغنيمة المال

*"The sweetest victory is that which fetches many prisoners,  
and the best booty is that which brings in more and more  
camels and sheep."*

(ii) **Vainglory:** Along with acquisition of booties, another strong and important motive was to establish awe and dread of one's supremacy, nobility, bravery and chivalry on others. This passion for vainglory was actually one of the natural particularities of the Arabs, and to prove themselves to be more powerful, honourable and distinguished from their own kind, they were prepared to face any and every kind of danger. The greatest desire of a brave Arab was that he should have such power and awe that no camel of others dare graze in his pasture; none dare

come near the spring from where he drinks water; none dare stay in the place where he breaks his journey; none dare wear the kind of dress that he wears; none should be considered greater and more glorified than him; none dare take revenge against him; he should always have an upper hand over others; none dare refuse service to him; in short, he should have every kind of domination over others and none should dare raise his head before him. The literary works of the poets of the pre-Islamic era is full of these kinds of emotions. A poet describing his vainglories says:

وقد علم القبائل من معي إذا قبب بابطحها بنينا

*"All the tribes of the Mu'ad know from the time they have settled on the earth that"*

بأنا المانعون لما اردنا وأنا النازلون بحيث شئنا

*"Whichever thing we want to forbid, we forbid it; and wherever we want to break journey and stay, we do stay."*

وإننا التاركون إذا سخطنا وإننا لأخذون إذا رضينا

*"When we are displeased, we renounce without any fear; and when we are pleased, we take without any hesitation."*

وإننا العاصمون إذا أطعنا وإننا العازمون إذا غصينا

*"When obedient to us, we safeguard; and when disobedient to us, we resolve for war."*

ونشرب أن وردنا الماء صفواً ويشرب غيرنا كدراً وطنينا

*"When we land on a spring, we drink pure and clean water and others have to drink muddy and turbid water."*

Qais bin Sa'lba says:

بيض مفارقنا تغلى مراجلنا نأمو باموالنا آثارايدينا

*"Our heads have become white<sup>1</sup> and our big cooking vessels keep boiling;<sup>2</sup> we heal the wounds caused by our hands by our wealth."<sup>3</sup>*

<sup>1</sup> That is, our heads have become white because of applying perfumes excessively.

<sup>2</sup> That is, we arrange frequent banquets and feed people.

<sup>3</sup> That is, if we kill someone then his tribe will not have the courage to take revenge against us and they are constrained to accept blood-money in lieu of the victim.

Another poet says in praise of Bani Wabar:

قوم اذا ماجنى جانيهم امنوا من لؤم احسائهم ان يقتلوا قودا

*"They are such a people that if any one of their violent men kills someone, they do not fear that someone would disgrace their nobility by avenging him."*

Hijr bin Khalid Sa'lbī says in a prideful tone:

منعنا حمانا واستباحنا رماحنا حتى كل قوم مستجير مراعه

*"We have closed our secured pastures to others, and our spears have opened up for us secured pastures of every other nation even though they have powerful sentinels to guard them."*

Akhnas describing the vainglorious of his tribe says:

ارى كل قوم قاربوا قيد فحلهم ونحن خلعنا قيده فهو سارب

*"I see that every nation has shortened the rope of their camel, but we have untied him and he grazes freely."*

By a study of *Ayyam al-Arab* (Days of Arabs), we understand that most of the horrible and dreadful wars that were waged during the pre-Islamic era were the result of this passion for vainglorious. The famous Battle of Basus between Bani Taghlib and Bani Bakr bin Wayel, which continued for 40 long years, was fought just because a she-camel of a guest of Bani Bakr bin Wayel entered the pasture of the chief of Bani Taghlib, Kulaib bin Rabee'ya, and started to graze along with Kulaib's camels. It was Kulaib's ground rule that neither he allowed any animal to graze in his pasture nor allowed any one to hunt in his hunting grounds, nor allowed any other animals to drink alongside his animals, inasmuch as that he could not even tolerate anyone lighting a fire opposite to his fire. When he saw an unfamiliar she-camel grazing alongside his animals, he got enraged and shot an arrow at her which struck her udder. When the owner of the she-camel saw her wounded he cried يا لنل "Aah, what an ignominy!" The Bani Bakr got so enraged that one of its youth, Jassas bin Murrah, went and killed Kulaib (who was his own brother-in-law). When the brother of Kulaib, Muhalhīl, heard about it, he rose to

take revenge of his brother's killing and suddenly both the tribes were engulfed in a war which did not end till it destroyed both the tribes.<sup>1</sup>

Another war, which is popularly known as Battle of Dahis, commenced just because one of the horses in a horse race went ahead of the others. The Chief of Bani `Abs, Qais bin Zuhair, possessed two horses named Dahis and Habra, who were famous for their great speed all over Arabia. The Chief of Bani Badr, Huzaifa bin Badr, could not digest that horses of one of his peers should get such popularity. He wagered his two horses in a race against his horses and it was agreed between the parties that whosoever's horses win the race would receive 100 camels. Hence, according to the wager, the horses were raced. When the horse named Dahis was about to run past the other horses, a man struck his mouth with a horse-whip and turned it towards a valley. On this account a quarrel took place and Qais killed Mazba, son of Huzaifa. Then Huzaifa killed Malik, brother of Qais. This resulted in such an intensive war between Bani `Abs and Bani Zubyan that it continued for nearly half a century and did not stop till the lineage of the horses and camels of the parties was about to get exterminated.<sup>2</sup>

The well-known battles between Aus and Khazraj, which continued for a century, started because of a very insignificant incident of hate and vainglory. A person belonging to the tribe of Bani Sa'd lived in the neighbourhood of the Chief of Khazraj, Malik bin `Ajlaan. Once, in the market of Bani Qainuqa`, he claimed that his ally, Malik bin `Ajlaan, was nobler and loftier than others. A person belonging to the tribe of Aus took offence of this bragging and killed him. On this account, a series of battles

<sup>1</sup> *Iqd al-Fareed*, Vol. 3, pp. 74-77; *Ibn Aseer*, Vol. 1, pp. 384-397.

<sup>2</sup> *Ibn Aseer*, pp. 34-42. The narration of *Iqd al-Fareed* is different from this, and the narration of *Aghani* is even more different. But everyone agrees that the cause of the battle was just horse racing.

between Aus and Khazraj commenced which would have obliterated both the tribes if Islam had not reached them.<sup>1</sup>

In the market of `Ukaz, a person belonging to the tribe of Kinana, Badr bin Ma`shar, sat down spreading both his legs and shouted that: "I am the loftiest and noblest person of the entire Arabia, and whosoever claims that he is nobler than me should come and strike at my legs with a sword." On this challenge, a young man of Banu Dahman went ahead and struck Badr's legs with a sword. This incident was enough to kindle the fire of war between the two tribes; swords were drawn out and thus the battle which is known as the First Battle of Fijar<sup>2</sup> commenced. After this, matter could not be cleared between Kinaana and Hawazin and their enmity increased to such a level that even their allied tribes also joined in the battle.

The Last Battle of Fijar, was also the result of this passion for vainglory, and as Ibn Aseer says, was the most violent war of the wars of the Days of the Arabs. In the year 26 Before the Prophethood, Nu`man bin Munzir, the King of Heera wanted to send a mercantile caravan to the Market of `Ukaz and made an enquiry with the chiefs of Arabs as to who would take the responsibility of safeguarding it. Baraadh bin Qais, the Chief of Kinana, said that he would take the responsibility of protecting it from the tribe of Bani Kinana. One of the chiefs of Hawazin, `Urwa al-Rahhal, said that he would take the responsibility of protecting and safeguarding it from the entire Arabia. Baraadh could not tolerate this tall claim, and when `Urwa escorted the caravan he killed `Urwa on the way. This incident rekindled the old enmity between Kinana and Hawazin and battle between the two tribes commenced. Quraish allied with Kinana and Banu Saqeef allied with the Hawazin. For four years, a succession of

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<sup>1</sup> *Ibn Aseer*, Vol. 1, pp. 494-511.

<sup>2</sup> *Ibn Aseer*, Vol. 1, pp. 439-445.

intensive bloodshed continued, and the most violent and horrible battles of "Day of Shamata," "Day of 'Abala," 'Day of Shurb' and "Day of al-Hareerah" took place, which overshadowed all other previous battles.<sup>1</sup>

(iii) *Revenge*: One more very strong and stern motive, which had painted the Arabian history with blood, is the passion for revenge. The Arabs believed that when a person is killed, his soul flies away in the shape of a bird, and until he is avenged keeps on flying in the valleys and the mountains crying out loudly اسقوني اسقوني ("Give me water, give me water"). In their terminology, the name of this bird was هامة (*Haamah*) or صداء (*Sada*).

Some believed that if the murdered person is avenged, he lives, and one who is not avenged becomes lifeless. Some thought that till the victim is avenged, his grave remains in darkness. Because of these kinds of beliefs, the relatives of the murdered person, his tribesmen, even the allied tribes considered it a duty to avenge him by killing his murderer and thus appease the departed soul. If the murderer was to be of lower rank than the murdered person, then his tribe tried to kill a person of similar ranking leaving aside the actual murderer. This way, most of the time, a series of battles and bloodshed used to start which continued for several years. If a person or a tribe failed to take blood revenge (نار) of his murdered kin or fellow tribesman, or accepted blood-money in its lieu, it was considered the greatest ignominy, and because of this cowardice his/their esteem and nobility were considered to have been disgraced.

In the works of the poets of the pre-Islamic era, among the numerous topics discussed, one is this very belief in taking the blood revenge (نار). On account of this belief, they used to exhort their tribes and people to wage war and

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<sup>1</sup> *Ibid.*



in their martial poetry, they usually take pride that their tribe has never allowed to go waste the blood of any of their murdered persons. Samoal bin 'Aadia says:

ومامات منا سيد حثف انفه ولا طُلُّ منا حيث كان قتيلا

"None of our Chiefs has died a nosy death, and whenever any of our men was murdered, his blood did not go in vain."

Haris bin Hillize says:

ان نبشتم ما بين ملحقه فالصبا قب فيها الاموات والاحياء

"If you were to dig out the graves from Malhaqa to Saquib, you find some buried are dead (whose blood has gone in vain, and they belonged to you) and some alive (whose blood revenge was taken, and they belonged to us)."

فما بال اصداي بظج غريبة تنادي مع الاطلال يا لابن حنظل

"What about those helpless 'voices' who wander in Falaj shouting: 'Ah, no one avenged Ibn Hanzal.'"

صوادى لامولى عزيز يجيبها ولا اسرة تسقى صداها بمنهل

"To answer the cries and complaints of those voices, there is neither any powerful ally nor any family which could satiate them on a spring."

Tabbat Sharra, describing his vainglories, says:

حيم الى الموت اذا خُيروا بين بتاعات وتقتال

"They are fond of death when offered the choice between fighting and accepting the blood-money."

A poet belonging to Bani Asad, in his will tells his tribe:

فلا تاخذوا عقلامن القوم انى ارى العار يبقن والمعاقل تذهب

"Do not accept blood-money in lieu of my blood from the enemy tribe, as ignominy remains over while blood-money is spent away."

A poet of Banu Khuza'a incites his tribe to avenge thus:

ولا تطمعن ما يفعلونك انهم اتوك على قرياهم بالمتئل

"Don't even think of the blood-money they offer you, because, in spite of the kinship, they have brought to you a deadly poison."

ابعد الازار مجسدا لك شاهدا اتيت به في الدار لم يتزل

*Will you accept the blood-money even after seeing that bloody trousers brought to you from which the blood has not yet faded?"*

اراك اذا قدصرت للقوم ناضجًا يقال له بالغرب ادبروا قبل

*"If you do so, then I think you have become that irrigating camel that is commanded to move forward and backward after placing a water bag on its back."*

فخذما فليست للعزير بخطبة وفيها مقال لامرئ منذ لل

*"If you want, go ahead and take it; but this is not the behaviour of noblemen; even an ignominious man will have reservation about it."*

Kabsha bint Ma`dikarib incites Bani Zubaid to avenge blood of her brother thus:

ارسل عبد الله اذحان وقته الى قومه لاتعقلوا لهم دمي

*"When Abdullah's end came, he sent word to his people: do not accept blood-money from them."*

ولا تاخذوا منهم افلاوا بكرًا وأترك في بيت بصعدة مظلم

*"Don't accept from them young camels and their calves when I am lying in a dark grave of Sa`dah."*

فان انتم لم تثاروا واتديتم فمشوا بأذان النعام المصلم

*"If you don't avenge my blood and instead accept blood-money, may you wander ignominiously like a lop-eared ostrich."*

ولا تردوا الا فضول نسائك اذا ارتملت اعقابهن من الدم

*"And may you not come near your wives except during their menstrual cycles when even their ankles are seeped with blood."*

These are the actual motives of Arabian tribal animosities and wars; there is not even a remote sign of any loftier objective or goal in these motives. The same bestial and animalistic motives which incite a wild beast to rend and eat its opponent, used to be their motives too for indulging in the slaughter and bloodshed, but in much more sophisticated and horrific ways. War, in their disposition, concerned with only their bestial part of life. It had no connection with its human and spiritual aspect; rather their

minds were bereft of even the perception that war could have a connection with this loftier ethical aspect of the human race.

#### 4. Savage Ways of War

As the perception about war in the pre-Islamic Arabian era was very low and as the motives and objectives of war were ignominious and impure, so also the ways and means adopted in war were extremely savage. Since the singularities of war in their perception were that it should be horrific, should be a complete spectacle of fury and vengeance, should bring about a combination of disasters and miseries, should be like a grinding mill, should be like an incinerating fire, should be like the camel chest which grinds everything to pieces, their actions in war also conformed with these perceptions. In their perception, the meaning of waging war against a nation was nothing but to fully destroy and disgrace it in whatever way possible. They knew only one thing and it was that the enemy is there to be obliterated. For this purpose the Arabs used to adopt many different methods, details of which can be gathered from their literature of the pre-Islamic era and the Days of Arabs; however, a few of them are mentioned here.

(i) *Maltreatment of the Non-Combatants:* No distinction was made between the combatants and the non-combatants during the war. Every member of the enemy tribe was considered an enemy, and the sphere of all war activities encompassed every group and strata of the society. The women, the children, the old, the sick, the wounded, no one was excluded from this widespread transgression; rather to disgrace the enemy tribe its women were particularly targeted during the war operations. Dishonouring the women of the conquered tribe, disrobing them, and debasing and despising them were considered among the glorious traits of the conqueror, and the poets used to mention it with a lot of pride. A poet says:

وعقيلة يسعى عليها قيم متغطرس ابدت عن خلخا لها

*"I have opened the anklets of many noble women, whose proud and envious husbands used to protect them with all their might."*

Another poet says:

فالههم بيضات الخدو زُمناك لا النعم المراح

*"At that moment, the objective is the beautiful, white-coloured veiled women and not the returning camels from the pasture."*

`Amr bin Kulsum gives the reason for fighting in the war so bravely because his tribe feared disgrace of its womenfolk. He says:

على آثارنا بيض حسان نحاذران تقسم او تهونا

*"Behind us are beautiful, white-coloured women; we fear lest they are divided and disgraced."*

Many a times, in the intensity of rage, the stomachs of the pregnant women of the enemy were cut open. Hence, Ibn Tufail, mentioning the victory of his tribe in the Battle of Fayf al-Reeh, says:

بقرنا الحبالى من شنوءة بعدما خبطنا بفيف الرج نهذا وخنعما

*"In the rage, we cut opened the stomachs of the pregnant women after we had struck Nahad and Khas'am with a fatal blow."*

(ii) **Torture by Fire:** The right to torture and hurt the enemy was unlimited, even to the extent that there was no hesitation to torture the enemy by fire. It is a very popular incident of Arabian history that the King of Yemen, Zu Niwas, got those people thrown into the raging fire who had apostate from his religion. In the Holy Quran, it is stated about this incident thus:

فَقِيلَ أَضْحَبَ الْأَخْدُودِ النَّارِ ذَاتِ الْوَقُودِ ۚ إِذْ هُمْ عَلَيْهَا قُعُودٌ ۖ وَهُمْ عَلَى مَا يَفْعَلُونَ بِالْمُؤْمِنِينَ شُهُودٌ ۚ وَمَا نَقَمُوا مِنْهُمْ إِلَّا أَنْ يُؤْمِنُوا بِاللَّهِ الْعَزِيزِ الْحَمِيدِ ۝

(البروج: 4-8)

*"Woe to the makers of the pit (of fire), fire supplied (abundantly) with fuel: Behold, they sat over against the (fire), and they witnessed (all) that they were doing against the Believers. And they ill-treated them for no other reason than that they believed in Allah, Exalted in Power, Worthy of all Praise!"* (The Quran, 85:4-8)

When Munzar bin Umra al-Qais gained victory over Bani Shaiban in the Battle of Uwarah, he began to burn alive their women, and with great difficulty a person from Bani Qais could save them. Taking pride in this incident, Aasha says:

سبايا بني شيبان يوم اواره على النار اذ تجلى به فتياتها

*"In the Battle of Uwarah, he got the prisoners of Bani Shaiban freed, while their young girls were being thrown in the fire."*

Because of a fault, `Amr bin Munzar had taken a vow that he would burn 100 men of Bani Daram alive. Therefore, he raided them and got hold of 99 men whom he burnt alive; to fulfil the vow one man was still required. Incidentally, at that very moment a person from the tribe of Baraajam was passing by. Smelling the burning flesh he thought that food was being prepared and came near `Amr's army. `Amr, to fulfil his vow, caught him and threw him in the fire pit. Jareer says about this incident:

اين الذين بنار عمر و احرقوا ام اين اسعد فيكم المسترضع

*"Where are those who were burnt by `Amr and where is As`ad who was being reared amongst you?"*

**(iii) Maltreatment of Prisoners of War:** The prisoners of war were maltreated worse than the animals, and many a times, in the excitement of vengeance they were killed by subjecting them to extreme torture. The incident of `Ukl and `Urainah is well documented in the Traditions that these people after taking the shepherds of the Prophet of Allah (peace be upon him) prisoners, severed their hands and legs, crushed their eyes and had left them on the hot sands till they died of thirst and pain.

An incident of the Battle of Uwara is very well-known that Munzar bin Umrau al-Qais began killing all the prisoners that he caught from Bani Shaiban, seating them on the peak of the Uwara Mountain, and vowed that he would not stop killing till their blood did not reach the bottom of the mountain. However, when the blood did not reach the bottom of the mountain even after killing hundreds of prisoners, reluctantly, to fulfil his vow, he poured water over the blood which then reached the bottom of the mountain.<sup>1</sup>

When the father of Umrau al-Qais, Hajr bin Haris, raided Bani Asad, he got killed all the prisoners that were caught and ordered that they be killed not by swords but by beating them to death with sticks.<sup>2</sup>

(iv) **Surprise Attack:** Attacking the enemy by surprise was one of the most favourite war strategies. For this purpose, sudden attacks were usually carried out in the fag end of the night, and this had become so common that the meaning of the word نصيب (Tasbeeh) had come to mean attacking in the early morning. Qurrah bin Zaid says:

فصبحهم بالجيش قيس بن عاصم فلم يجدوا إلا الاسنة مصدرا

*"Qais bin 'Aasim reached them with his army in the morning, but he did not find anything except that the points of the spears were piercing through the chests."*

Abbas bin Murdas Sulmi says:

فلم ارمثل الحى حيا مصبحا ولا مثلنا يوم الثقينا فوارسا

*"I have not seen a tribe like that tribe which we attack in the morning and nor was there anyone like us when we confronted the horsemen."*

Based on this, people used to pray for their friends by saying: "May you be safe in the morning." 'Antrah bin Shaddad says to his lover:

يادارعبلة بالجواء تكلمنى وعى صباحا دارعبلة واسلمى

<sup>1</sup> Ibn Aseer, Vol. 1, p. 409.

<sup>2</sup> Ibid, p. 276.

*"O house of 'Abla that is in Juwa, talk to me, and be safe in the morning from the marauders."*

It was also customary in Arabia that the enemy chiefs were killed while they were asleep. The idiomatic name given for this activity was فُتَكَ (*Fatak*), and the perpetrators of this act were called فُتَّاك (*Fattak*). Haris bin Zaalim al-Murree, Baradh bin Qais al-Kanaani, Sulaik bin Salka, Tabbat Sharra were the most famous *fattak* of Arabia.

(v) **Debasement of the Dead:** In the frenzy of revenge, even the dead were not spared; their noses, ears, and other parts of their bodies were cut off. Many a times such horrific acts were committed that just thinking about it is enough to send shivers down the spine. It is a very well-known incident of the Battle of Uhad that the women of the Quraish severed the ears and noses of the Muslim martyrs and made necklaces out of them. Hind, wife of Abu Sufiyan, had removed the liver of Hazrat Hamza and had chewed it. In Yaum al-Yemameen, when the Chief of Bani Judaila, Asba' bin 'Amr, was killed, a man belonging to Bani Sambas, severed both his ears and sewed them on his shoes. Abu Sarwah Sambasi proudly mentions this incident and says:

نخضفُ بالأذان منكم نعالنا

*"We graft your ears as patches on our shoes."*

Another poet of Bani Sambas, addressing Bani Jadeela, says:

فان تبغضونا بغضاً في صدوركم فانا جدعنا منكم وشرنا

*"You are not to be blamed if you have hatred for us in your bosoms, because we have severed your ears and noses and have caught and sold you."*

Sometimes, the dead bodies of the enemy were dragged by their feet: a poet says:

وشدوا شدة اخرى فجروا بارجل مثلهم ورموا جُونا

*"They attacked a second time and dragged their opponents by their feet, and short Juwain with an arrow."*

When they had intensive hatred and enmity towards someone, they used to take a vow that after killing him they will drink wine from his skull. In the Battle of Uhad, Hazrat 'Aasim bin Sabit had killed two brothers, Musaf bin Talha and Halas bin Talha. Their mother, Salaafa, had taken a vow that she will drink wine from the skull of Hazrat 'Aasim. When Hazrat 'Aasim was martyred at a place called Rajee', people from Quraish went in search of his body so that they could sell his skull to Salaafa.<sup>1</sup> In the Battle of al-Fasaad, which raged for 25 long years, both the factions drank numerously from the skulls of each other's victims. In the Battle of Yahameem, such incidents had also occurred;<sup>2</sup> hence, Abu Sarwah Sambasi, referring to these incidents, says:

ونشرب كرمًا منكم في الجماجم

*"With a bad taste we drink wine from your skulls."*

ان يفعلوا ولقد تركت اباهما جزر السباع وكل نسر قشع

*"It is not unreasonable if they bad-mouth and abuse me, because I had left their father to become feed of the beasts and the vultures."*

Shuraih 'Abasee says:

واقسم لولا زرع لتركته عليه عواف من ضباع وانسُر

*"I swear that if he had not worn the armour, I would have left him lying for the vultures and scorpions and similar carrion-eating animals."*

'Aatikah bint Abdul Muttalib, taking pride in the incidents of the Battle of Fijar, says:

ومجدلا غادرته بالقاع تنهسه ضباعه

*"Our horsemen left Maalik on the ground; the scorpions used to nibble and eat him."*

Mahalhal, mentioning the Battle of Basoos, says:

قتلن تعاورهما النسورا كفلهما يتهننها وحواجل الغربان

<sup>1</sup> This incident has been reported in *Tabaqaat Ibn Sa'd*, *Fatah al-Baari*, and *Asad al-Ghaba*.

<sup>2</sup> Tabrezi has made a mention of this in the exegesis of Hamaasa.



*"On their dead, flocks and flocks of crows and vultures descend and nibble and eat their hands."*

(vi) **Treachery:** In the wars of the pre-Islamic era, there was no place for honouring the covenants. Whenever an opportunity arose to get even with the enemy or avenge it, every covenant and every treaty was ignored and set aside. We do not have to search far back in the Arabian history; during the era of Prophet Muhammad (peace be upon him) itself, we find numerous incidents of treachery of the Unbelievers of Arabia. The Jewish tribes of Banu Qainuqa, Banu Nadheer and Banu Quraiza had entered into treaties with the Prophet of Allah (peace be upon him), but all three of them breached them when opportunity arose; Banu Nadheer hatched a plot to kill the Prophet himself; Banu Quraiza openly allied with the Unbelievers during the Battle of Ahzaab; and Banu Qainuqa, on the instigation of the Quraish, were the first to declare war. The tribes of Ra'l and Zakwan requested the Prophet (peace be upon him) to help them, and when the Prophet (peace be upon him) sent 70 of his Companions with them, they killed all of them at Ber Ma'una. At the place called Rajee', the tribe of Banu Lahyaan, assured safety to Hazrat Khubaib, Hazrat Zaid bin Wasnah and Hazrat Abdullah bin Tarique, and when they surrendered, they were caught and bounded; one was killed and the other two were taken to Makkah and were sold. Referring to these kinds of treacheries the Holy Quran says:

لَا يَرْفُؤُونَ فِي مَوْمِنٍ إِلَّا وَلَا ذِمَّةً وَأُولَئِكَ هُمُ الْمُفْعَدُونَ ﴿١٠﴾ (النحل: 10)

*"In a Believer they respect not the ties either of kinship or of covenant! It is they who have transgressed all bounds."*

(The Quran, 9:10)

The aforesaid were the different ways by which war was conducted by the Arabs during the pre-Islamic Era. The singularities of an Arabian army have been described very concisely by a poet thus:

فلست بحاضران لم تتركهم      خلال الدار مشيلة طحون

*"I am not a civilized citizen if a plundering and grinding army does not arrive right in front of your homes."*

يدين بها العزيز إذا رآها ويسقط من مخافتها الجنين

*"Just looking at it, the powerful surrender and the pregnant abort with fear."*

تشيب النامد العنراء منها ويهرب من مخافتها القطين

*"The young virgin girls become old from its terror, and from its fear people also flee who never used to abandon their posts."*

يطوف بها من النجار اسد كاسد الغيل مسكنها العرين

*"In it roam the lions of Bani Najjar like the lions of the jungle whose abode is the thick bushes."*

يظل الليث فيها مستكينا له في كل ملتفت انين

*"In it the lion remains always silent and the listener hears only the cries of the person whom he tears to pieces."*

## MODES OF WARFARE OF ROME AND IRAN

The Arabs, at best, were savages. They did not know anything about urbanization and settled life, and were ignorant of any sciences and civilization. Hence, it is not surprising to find such kind of savagery and barbarity in them. But, we let us look at the conditions that were prevalent in those nations who had reached the zenith of civilization and urbanization.

History has recorded and secured much information about the wars that were prosecuted in that era. The people who have studied them know that at least on this account there is not much difference between the modes of the civilized and the uncivilized world. Whenever a nation used to attack another nation, its determination was always to obliterate it at any cost. Practically, no distinction was made between the combatants and the non-combatants. Every member of the enemy nation was open to slaughter. The sphere of activities of war equally encompassed all — women, children, the old, the wounded, the sick, the monks, and the ascetic. When the armed forces advanced, it

was common to destroy the crops and orchards, to demolish buildings, and to plunder and burn down the towns and habitats of the enemy. A city conquered after tremendous resistance was signing its own death warrant. As soon as the enraged conquerors entered such a city, they used to start massacring the residents, and if this did not cool down the fire of revenge, they used to burn down the city. Even a king like Alexander the Great showed no exception to this universal behaviour. When he conquered the ancient trading centre of Syria, Soor, after a very harsh siege of 6 months, he got so enraged that he ordered massacre of its population, and the nation which was known to be the most civilized nation of the world of that time killed 8000 innocent human beings, and enslaved and sold nearly 30,000 men. At that time, the prisoners of war were either killed or enslaved; there was no third option for them.

Sometimes, whenever the commanders of the armies or the kings themselves were overwhelmed, they were killed with worse kind of torture and ignominy. Honour and safety of ambassadors and emissaries have always been the most important expediences of war, but sometimes even this group was not safe from transgression and oppression. Carrying a message to the court of a king from his opponent which he might consider insulting or below his rank was as if carrying one's own death warrant. In all such situations, ignominy or imprisonment of the emissaries was a very common occurrence; sometimes they were even killed unceremoniously.

The group that suffered most was the religious group. If unfortunately the inhabitants of the conquered country happened to be followers of another religion then the first priority of the conqueror was to destroy places of worship, violate and disgrace their sacred places, and disgrace their religious clergy and leadership; sometimes this was taken to such an extreme that the conqueror used to force the conquered to change their religion.

In the bygone era, there were two most civilized states – one was the Roman Empire and the other was the Iranian Empire. In respect of civilization, urbanization, science and technology, etiquette, pomp and splendour, and, for that matter, in all respects they had supremacy over all other nations of the world. Therefore, we will have a look at their history to see what their attitude was towards war.

### 1. Religious Oppression

Along with political differences between Rome and Iran, there were religious differences too. Whenever there was a war between Zoroastrian Iran and Christian Rome and they got the opportunity to invade each other's country, religion used to be the prime target of oppression and tyranny. During the reign of Qubad (501–531 CE) when at the instigation of the State of Iran, the King of Hira Munzir, attacked Syria, he took prisoners 400 nuns and sacrificed them to the idol of Uzza.<sup>1</sup> When Khosrau Parviz declared war against the Roman Empire on the ostensible reason of avenging Emperor Maurice (who was murdered by his General Phocas and who earlier had helped Khosrau regain his throne), he destroyed the churches within his dominion, looted the offerings and forced the Christians to worship fire.<sup>2</sup> In 615 CE, when he conquered Jerusalem by assault, he arrested patriarch Zachariah and seized the "true cross" on which according to the Christian belief, Prophet Jesus had been crucified and transported them to Persia; burned down the stately churches of St. Helena and Constantine; looted all the devout offerings of three hundred years; and

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<sup>1</sup> Sykes, P. M., *History of Persia*, Vol. I, p. 482. [He writes: "The year 529 was important only for the raid of the savage Saracen Mundhir of Hira, who ravaged Syria up to Antioch, and whose bloody sacrifice of 400 nuns to the goddess Al-Uzza, the planet Venus, must have sent a thrill of horror throughout Christendom." (Translator)]

<sup>2</sup> Gibbon, Edward; *"The Decline and Fall of the Roman Empire"*, Vol. V, Chapter XLVI, p. 486.

massacred ninety thousand Christians.<sup>1</sup> In response to this atrocity, when Heraclius invaded Iran from the North, he too committed similar atrocities and left no stone unturned to humiliate and disgrace the Zoroastrian religion.<sup>2</sup>

Because of the enmity with the Romans, the Iranian government extensively persecuted its Christian subjects. Before the adoption of Christianity by the Roman Empire, the Christians were safe in Iran. But Iran's attitude towards its Christian subjects changed soon after Constantine was baptized. In 339 AD, Shapur executed Bishop Mar Shimun and 105 other priests and demolished many churches. The persecution and oppression of the Christians continued for another forty long years.<sup>3</sup>

The atrocities committed by Behram to obliterate Manichaeism were the most monstrous and vicious. When Maani gave up Zoroastrianism and invented his own separate religion and people began to believe in him and embrace his religion in large numbers, Behram arrested the followers of this new religion and killed them; ultimately, Maani himself was arrested and flayed alive, and his skin was stuffed and hung up on the gate of Gundeshapur; this gate, for a long period of time, was known as *Bab-e-Maani* (Gate of Maani).<sup>4</sup>

## 2. Persecution and Oppression of Emissaries:

Theoretically, the perception of respecting emissaries was in existence at that era too, and the political thinkers considered it as one of the most important expedencies. But, practically, it was not at all honoured. When the emissaries of Ardeshir reached the court of Emperor

<sup>1</sup> Gibbon, Edward; "*The Decline and Fall of the Roman Empire*", Vol. V, Chapter XLVI, p. 485.

<sup>2</sup> *Ibid.*, p. 498.

<sup>3</sup> Sykes, P.M., "*History of Persia*," Vol. I, pp. 447-448.

<sup>4</sup> Allamma al-Bairuni has described this incident in his book "*Aasaar al-Baquiya*."

Severus Alexander, and delivered the message that the "Romans should content themselves with the undisturbed possession of Europe and evacuate Syria and rest of Asia," the Emperor got so enraged that he imprisoned these emissaries.<sup>1</sup>

It is mentioned about an eminent King like Noshirwan that when Dizabul el-Khan, the Turk, "in A.D. 567, sent an embassy to the Great King with proposals for an alliance, Noshirwan, in deep perplexity, adopted the foolish course of poisoning the ambassadors and stating that they had died from natural causes!"<sup>2</sup>

When the victorious drives of Khosrau Parviz almost ended the rule of Roman Empire in Asia and Africa, the Romans lost control of Syria, Palestine, Egypt and the entire Asia Minor and when the Persian forces reached Kadikoy right in front of Constantinople, Heraclius sent his emissaries pleading for peace. But Khosrau caused the Chief of the embassy to be flayed alive and imprisoned the remaining emissaries, and sent an insulting and offensive letter to Heraclius and captioned it thus:

*"From Khosrau, the magnanimous god, the ruler of the world, to the foolish ignoble slave Heraclius."*<sup>3</sup>

### 3. Treachery

These so-called civilized nations were even bolder in violating the treaties and covenants. In their view the covenant had no meaning and importance in relation to the demands of the occasion. We find scores of examples in history that whenever the Caesars of Rome or the Sassanid Emperors of Persia found their enemies in dangerous and precarious situations, they, without any slightest of hesitation had set aside mutual covenants and treaties and had declared war. Leave alone others, we find even

<sup>1</sup> Sykes, P.M., "History of Persia," Vol. I, pp. 426.

<sup>2</sup> Ibid, p. 494.

<sup>3</sup> Foord, Edward A., "The Byzantine Empire", p. 101.

Emperors like Noshirwan and Justinian, who were the best representatives of the Roman and Iranian civilization, are found to be conspicuous in the list of treacherous persons. When Noshirwan required peace for setting right the domestic situation in his kingdom, he readily accepted the offer of truce from Justinian and signed a peace treaty. But when he noticed the power of Rome growing with the victories of the Roman General Belisarius in Italy, he instigated Hira to attack Ghassan, and then he himself rose in support of Hira so that Rome was forced to support its confederate Ghassan.<sup>1</sup>

On the other hand, in 571 AD, when Dizabul Elkhan Atrak, being offended by Noshirwan, wished to have an alliance with Justinian to disgrace the Persian Empire, Justinian grasped this opportunity with both his hands, and breaching the peace treaty, commenced war against Noshirwan.<sup>2</sup>

#### 4. Savage Modes of War

Intellectually and theoretically, a basic concept of the rights and duties of the combatants was in existence in the world from the very beginning. The legislators of ancient Greece had legislated a law that those who are killed in a battle should be buried or the enemy dead should be handed over to the enemy upon request; temples, sanctuaries and other religious buildings should be protected; immunity should be granted to athletes, priests and other religious functionaries; and those inhabitants of the captured city who take refuge in places of worship should not be killed.<sup>3</sup> However, first of all, these laws did not apply to wars between different nations and states; these had been legislated for internal conflicts only. Secondly, practically,

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<sup>1</sup> Gibbon, Edward, *The Decline and Fall of the Roman Empire*, Vol. V, Chapter XLII, pp. 232-233.

<sup>2</sup> Sykes, P.M., *History of Persia*, Vol. I, p. 494.

<sup>3</sup> Grote, George, *History of Greece*.

the other states had neither accepted them as a law nor had they ever acted upon it.

The Roman Empire, particularly, did not even acknowledge existence of non-Roman states as lawful and hence even a perception of any right or duty while dealing with them was non-existent. Similar was the case with Iran. In their concept, non-Iranian nations were barbarians and they considered their states as rebels of the Iranian Empire, and hence while waging war against them, they did not feel obligated to follow any kind of ethical standards and values.

The military system of Rome and Iran was also such that no ethical limits could be enforced in that system. There was no arrangement to impart training in etiquette of war and to establish military discipline in the system. At the time of war, a crowd of common soldierly inhabitants used to gather and take part in the war with the sole intention of looting the neighbouring countries, obliterating the enemy nations, acquiring wealth and opulence to lead a comfortable life, getting possession of slaves and beautiful slave-girls for service and pleasure. Even their rulers had no conception of any lofty ethical goal of war before them; rather they used to wage war only to defeat and obliterate their enemies. This is the reason that when their military forces marched and advanced into enemy territories everything was annihilated – women, children, the old, the sick, the weak, animals, trees, temples, places of worship, etc. Everything was looted, and that which could not be looted was burnt down.

The Vandals of Africa and the Goths of Europe were always in a state of war with the Roman Empire. Books of history are full of the incidents of the barbaric treatment meted out to them by the Romans. During the reign of Emperor Justinian when attacks were carried out against the Vandals of Africa, their entire population was completely annihilated. Before the war, their population



consisted of 160,000 warriors excluding large numbers of women, children and slaves. But when the conquering Romans subjugated them, not a single person was left alive. Gibbon says that "such was the desolation of Africa that in many parts a stranger might wander whole days without meeting the face either of a friend or an enemy. The nation of the Vandals had disappeared. ...When Procopius first landed, he admired the populousness of the cities and country, strenuously exercised in the labours of commerce and agriculture. In less than twenty years, that busy scene was converted into a silent solitude; the wealthy citizens escaped to Sicily and Constantinople; and the secret historian has confidently affirmed that five millions of Africans were consumed by the wars and government of the Emperor Justinian."<sup>1</sup>

In Europe, the Goths too were similarly treated. When the Gothic King, Totila, was killed in the battle with Romans, he was stripped naked and his apparel and the crown were presented to Emperor Justinian as a gift.<sup>2</sup>

In 70 A.D. when the Roman General Titus, conquered Jerusalem, he committed horrific atrocities on its populace. We are told that "the tallest and the most beautiful youths were reserved for the conqueror's triumph. Of those above seventeen years of age multitudes were doomed to work in chains in the Egyptian mines. Others were sent as presents to various towns to be slain by wild beasts or gladiators, or by each others' swords in the provincial amphitheatres. The young of both sexes were sold as slaves. Even during the days on which these arrangements were being made, 11,000 perished for want of food; some because their guards would not give it to them, others because they

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<sup>1</sup> Edward Gibbon, "*The Decline and Fall of the Roman Empire*", Vol. V, Chapter XLIII, p. 266.

<sup>2</sup> *Ibid*, p. 292-293.

would not accept it. Josephus reckons the number of captives taken during the war at 97,000, and the number of those who perished during the siege at 11,00,000. The number who perished in the whole war are reckoned at the awful total of 13,37,490, and the number of prisoners at 1,01,700; but even these estimates do not include all the items of many skirmishes and battles, nor do they take into account the multitudes who, throughout the whole country, perished of misery, famine and disease. ...Two thousand putrefying bodies were found even in the subterranean vaults of the city. During the siege all the trees of the environs had been cut down, and hence the whole appearance of the place, with its charred and bloodstained ruins, was so completely altered, that one who was suddenly brought to it would not (we are told) have recognized where he was.”<sup>1</sup>

These kinds of atrocities were routinely committed in all the battles and wars between Rome and Iran. In 359 A.D., Shapur II (also known as Shapur Dhul-Aktaf) “marched steadily westwards towards the Euphrates without attempting to besiege Nisbis, and would certainly have invaded Syria but for the fact that floods had made the Euphrates impassable and thus upset his plans. He consequently turned north-east across Mons Masius, and having gained a victory near Amida, the modern Diarbekr, he apparently gave up his main objective and decided to besiege this important fortress. Amida occupied a site of great natural strength, situated on the right bank of the Tigris, and was defended by a force of eight thousand men. Shapur hoped to terrify it into submission, but in vain, and an attempt to carry it by assault resulted in the death of the son of the Hunnish King. Regular siege operations were perforce undertaken, and after a heroic defence, in which the Roman historian took his part, the efforts of the

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<sup>1</sup> Farrar, Fredric William, *Early Days of Christianity*, pp. 487-489.

garrison were frustrated by the giving way of an inner mound which filled up the ditch. Shapur forced his way in, and exasperated by his heavy losses, gave orders for a massacre. The Roman leaders who were captured were either crucified or sold for slaves.”<sup>1</sup>

In 540 A.D., when Noshirwan invaded Syria, “he treated with pitiless cruelty the first town that he captured in order to strike terror throughout Syria, and marched towards rich Antioch, ravaging the open country and extorting ransoms as he proceeded. Antioch had suffered from a series of earthquakes little more than a decade previously, its fortifications were badly designed and in a broken-down condition, and there was no adequate garrison for its defence. Consequently, the capital of Syria with its priceless treasures fell an easy prey to Noshirwan, who, in pursuance of his policy which aimed at inspiring terror, destroyed every house and building that was not ransomed. As was invariably the case under the Parthian and Sasanian Monarchs alike, there was no idea of annexation and administration, but only of raiding and destruction.”<sup>2</sup>

In 572 A.D., Noshirwan again invaded Syria and looted, plundered and burnt down Antioch, Apamea and other cities and settlements, seized and transported 292,000 Syrians to Iran, selected and sent the most beautiful girls to Elkhana Atrak to appease him and make him break his alliance with Justinian. In 576 A.D., he attacked Armenia and when he could not conquer Theodosiopolis, invaded Cappadocia and destroyed everything which came in his way and ultimately burnt down the city of Melitene. In his last days, when Khusroo Pervez attacked Syria, Palestine, and Asia Minor, the ferocity of destruction was horrific; just the atrocities he committed in Jerusalem have been

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<sup>1</sup> Sykes, P.M., *History of Persia*, Vol. I, pp. 450-451.

<sup>2</sup> Sykes, P.M., *History of Persia*, Vol. I, pp. 488.

mentioned above; the fate of Damascus, Antioch, Aleppo was not any different.<sup>1</sup>

These barbaric acts sometimes used to manifest in the shape of worst kinds of cunning, deceit and dastardly intrigues and conspiracies. Hence, when Ardeshir could not defeat Chosroes, he got him Assassinated; such incidents are not uncommon in the history of Rome and Iran.

### 5. Plight of Prisoners of War

The group that was treated in the most heinous and worst manner was the group of the prisoners of war. The ancient Greeks and Romans considered other nations as barbarians and according to their law, these unfortunate creatures were meant either to be killed or enslaved; there was no third alternative. A moral teacher like Aristotle, without any qualms, says that nature has created the barbarians just to serve as slaves: "It is their right that Hellenes (the Greeks) should rule barbarians."<sup>2</sup> In another place, while enumerating legal and honourable ways of acquiring wealth he includes waging war to enslave those nations whom Nature has created only to be slaves as one such method.

On the one hand, these beliefs had rendered the lives and properties of foreign nationals worthless in the sight of the Romans, and on the other the Roman society had been raised in such a bestial environment that people used to actually enjoy terrifying and ghastly scenes, and in such scenes they liked to see reality instead of illusion. If a house is to be shown burning, they wanted an actual house to be burnt down. If a man is to be shown being burnt alive or a criminal is to be shown being torn apart alive by lions, they were not satisfied unless and until a man was really burnt alive and another was left in the cage of lions. For

<sup>1</sup> These details have been gathered from the books of Gibbon, Sykes, and Ford.

<sup>2</sup> Aristotle, "*Politics*," Book I, Ch. II.

this purpose, they were always in need of men who can be used in these ghastly and savage events. Obviously, the free citizens of Rome could not be suitable for this purpose; the prisoners of war seized from other foreign countries were used for this bloody and gory entertainment. Sometimes, these events, which were inappropriately called games or sports, were conducted on such a large scale that thousands of men used to be put to sword. Emperor Titus, who is called as the "Darling of the Human Race," once captured 50,000 beasts and then left them in a compound along with several thousands of Jewish prisoners. In the Trojan games, 11,000 beasts and 10,000 men were made to fight each other simultaneously. Emperor "Augustus in the document annexed to his will, mentioned that he had exhibited 8000 gladiators and 3510 wild beasts."<sup>1</sup> And all these games of entertainment owed their existence and continuation to the prisoners of war.

Apart from this, the other purpose of prisoners of war was to serve the Romans. In the Roman society, their status was the lowest; they had no recognized rights; their lives had no value; and their purpose of life was nothing but to please and serve their masters. According to Farrar: "At the lowest extreme of the social scale were millions of slaves, without family, without religion, without possessions, who had no recognized rights, and towards whom none had any recognized duties, passing normally from a childhood of degradation to a manhood of hardship, and an old age of unpitied neglect."<sup>2</sup> The Roman law was very severe with regard to the slaves. For petty mistakes and negligence, the punishment was death; for the crime committed by an individual, whole families were put to death.<sup>3</sup> In 612, after

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<sup>1</sup> Farrar, Fredric William, *The Early Days of Christianity*, p. 6.

<sup>2</sup> *Ibid*, p. 2-3.

<sup>3</sup> Rev. Cutts, Edward Lewes, *Constantine the Great. The Union of the State and the Church*, p. 57.

the coronation of Heraclius, his wife Empress Eudocia died. Her bier was taken for burial in a procession. "A servant girl chanced to cough or spit as the Empress's bier passed by and a little saliva fell on the edge of the pall. It will hardly be believed that she was seized and beheaded on the spot!"<sup>1</sup>

Farrar, quoting from Le Maistre's *Due Pape* (i. 283), writes in the footnote: "It is reckoned that in the Empire there cannot have been fewer than 600,00,000 [six crore] slaves."<sup>2</sup>

As in Rome, in Iran too no mercy or leniency was ever shown to prisoners of war. Leave alone ordinary prisoners, even kings and emperors were not shown any mercy or leniency. The Roman Emperor Valerian was captured by the Monarch of Iran, Shapur I, and "he grew old in captivity and was treated as a slave ... Later writers inform us that he was shown to gazing multitudes, clad in the imperial purple and in chains; and this is not improbable. More doubtful, though still possibly true, is the statement of Lactantius (writing about A.D. 312) that the hapless old man served as a mounting block to his ungenerous conqueror, and that his body was flayed after his death and skin kept as a trophy."<sup>3</sup> It is a very well-known incident of the reign of Shapur Zulaktaf, King of Iran, that to take revenge on the Arab prisoners of war, whom he had taken prisoners in Bahrain and El-Hasa, he ordered that their shoulders be pierced and then tied together with ropes.

Rev. Cutts says: "The ancient Roman policy had always regarded domestic treason as a crime so dangerous that it was necessary to punish every instance of it with a severity calculate to excite general terror; e.g. if one slave in a fit of revenge for ill-treatment assassinated his master, the law required that the whole family of slaves should be put to death." (Translator)

<sup>1</sup> Ford, Edward A., *The Byzantine Empire*, p. 99.

<sup>2</sup> Farrar, Fredric William, *The Early Days of Christianity*, p. 2.

<sup>3</sup> Sykes, P.M., "*History of Persia*" Vol. I, p. 433.

Because of this brutal treatment, he is known history as Zulaktaf or "Lord of the Shoulders."<sup>1</sup>

These bloody incidents become even more horrific when we hear that these atrocities were committed on human beings not for any lofty purpose but just to obtain fame and name and to show off royal pomp and awe. And sometimes, thousands of people were used to be sacrificed on the altar of the most ignoble carnal desires of the kings. One such incident took place during the lifetime of Prophet Muhammad (peace be upon him) himself. Khusru Perviz, the Monarch of Iran, on hearing the beauty of the daughter of No`man bin Munzar, the ruler of Hira, ordered that she be added to his extensive seraglio. Because of the traditional Arab pride, No`man refused to obey the orders. On this refusal, Khusru ordered that the principality of Hira be confiscated and No`man be arrested. After leaving his family under the protection of Bani Shaiban, No`man presented himself at the Court of Khusru and pleaded to be pardoned. But Khusru killed him and sent a force of 40,000 men in order to seize the family of No`man from Bani Shaiban. At a place called Zu-Qar that bloody war took place between the Iranian forces and the Arabs in which thousands were killed on both sides, and rivers of human blood were shed just because a king wanted to see a beautiful woman on his lap.<sup>2</sup>

From this brief historical narration it is clear that in the aforesaid era, leave aside their existence, there was not even any perception of ethical limits of war, rights and duties of the combatants, control over self during enmity, and a balanced combination of mercy and anger. The most civilized nations of the era, as far as war was concerned, were in the meanest state of bestiality and savagery. In that

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<sup>1</sup> *Ibid*, pp. 444-445.

<sup>2</sup> Sykes, P.M., "History of Persia," Vol. I, pp. 521-522.

age, war means nothing but a tumult of slaughter and bloodshed, a calamity of plunder and seizure which could be waged to fulfil every desire and need of the powerful. Brutality, hard-heartedness, barbarity, ferocity, and bestiality had become integral components of the war. As soon as the word "war" was uttered, the mind wandered towards an activity which comprised of every method of killing fellow human beings and destroying their habitats. Centuries of ignorance and apathy had established such a deep relationship between war and brutality that it had become difficult to perceive war without plunder, massacre, conflagration and destruction, in which women, children, the old, the sick and the wounded were not killed and in which the places of worship and the sacred places of other religions and communities were not destroyed and disgraced, and which is fought within the limits of ethical boundaries.

## **REFORMATIONS CARRIED OUT BY ISLAM**

This was the world when Islam raised the flag of reformation. It changed the old perceptions of war and presented an altogether new concept of war with which the world was not familiar. Its concept is that war and slaughter, in reality, is a sin from which every man should desist. However, if there were to exist a greater sin than this, i.e. if there were to be widespread oppression and persecution in the world and the unruly people were to endanger the peace and tranquility of the masses, then war becomes not only a necessity but becomes mandatory to get rid of the oppression and the unruly elements.

### **1. Islamic Concept of War**

Since, according to this concept, the real purpose of war is not to obliterate or harm the opponent but is to eradicate the evil, Islam puts forth the principle that in war only that much force and power should be used which is essential to eradicate the evil, and it should be used only



against those groups which are actively involved in evil activities or at best should be used against those from whom there is an apprehension of evil. All other groups should be protected from the effects of war, and the activities of war should not reach and affect any other things of the enemy which are not at all connected and concerned with its war efforts.

This concept of war was quite different from the concepts which existed in the minds of non-Muslims, and therefore, setting aside all the words and terminologies current at the time, Islam devised a different terminology of جهاد في سبيل الله (*Jihad [Struggle] in the Way of Allah*), which very clearly conveys its meaning and its real purpose, and completely separates it from the brutal conceptions of war. According to the Arabic lexicon, the meaning of *Jihad* is "to strive to the utmost to achieve some goal or complete a piece of work." In this word, there is no implication of the words generally used to describe war such as حرب "*harab*" which connotes anger, plunder and seizure; روع "*rau*" which connotes fear, fright and horror; شر "*sharr*" which connotes evil, mischief and disaster; نطح "*nataha*" which connotes ramming and butting like rams and animals; and كربه "*kariha*" which connotes misfortune and calamity. Contrary to this, *Jihad* very clearly indicates that the only aim of a *Mujahid* (one who strives in the way of Allah) is to eradicate the afflictions and he strives only to the extent required to eradicate it. Just merely using the word *Jihad* (striving) was not enough to convey the meaning because it does not indicate the direction in which this struggle is to be carried out; *Jihad* or striving could be in the direction of the good as well as in the direction of the wrong. Therefore, to make it more specific it has been bounded by the words في سبيل الله "*In the Way of Allah*," so that *Jihad* or striving should not be for fulfilling of any carnal desire, nor

for conquering a country, nor for possessing a woman, nor for avenging any personal enmity, nor for acquisition of wealth and opulence or political power or fame and glory, and that it could mean just that kind of *Jihad* or striving which is undertaken only for the sake of Allah and for the achievement of such goals and objectives which Allah likes and in which there is not even a suspicion of fulfilment of selfish desires and longings.

Under this impeccable and virtuous concept, Islam has devised a complete code of law which comprises of details regarding etiquette of war, its ethical limits, duties and rights of the combatants, distinction between combatants and non-combatants and their individual rights, rights of the covenantees, rights of the envoys and emissaries, rights of prisoners of war, and rights of the conquered people. For each of them, Islam established not only a comprehensive law but also established its subordinate divisions, clauses and sections as required. Along with this, there is a vast reservoir of examples left behind by the Prophet of Allah (peace be upon him) and the Right-Guided Caliphs which clearly explains the system of promulgating and acting upon the comprehensive code of law and its subordinate sections, clauses and divisions.

## **2. Purification of the Objective of War**

However, the purpose of legislation of this law was not just to formulate some rules and regulations on paper; rather its real purpose was to reform the evil practices of war, and by eradicating the savage modes of war establish in their place the civilized modes of war. For this, it was required to obliterate the wrong perceptions of war that had been firmly established in the hearts and minds of the people for centuries. The thing that people were not able to understand was that if war was not waged for the acquisition of wealth, land, property, and country; for fame and glory; and for honour, tribalism and nationalism, then

what could be the other purpose of war for which man should endanger his life. They were not able to perceive a war which is free from selfishness and fulfilment of selfish desires. Therefore, the first and the foremost thing that the Messenger of Islam (peace be upon him) did was that he very clearly explained the meaning of *جها د في سبيل الله* ("Striving in the Way of Allah") and set apart the boundaries which distinguished it from *جها د في سبيل الطاغوت* ("Striving in the Way of Evil") and variously impressed on the minds of the people this pure and virtuous concept of war. Many Sayings and Traditions of the Prophet of Allah (peace be upon him) are narrated in this regard; a few of them are mentioned here:<sup>1</sup>

1. It is reported by Hazrat Abu Musa Ash`ari that a person came to the Prophet of Allah and said: "A person takes part in the war to acquire booty; some other fights for name and fame; and some other fights to show off his bravery. Kindly tell me whose fight is in the Way of Allah?" Prophet of Allah answered: "The war of that person is in the Way of Allah who wages it to glorify and exalt the Word of Allah." (Bukhari, Muslim, Abu Dawood)
2. It is reported by Hazrat Abu Musa Ash`ari that a person came to the Prophet of Allah (peace be upon him) and asked: "O Prophet of Allah, what is war in the Way of Allah? Amongst us, there are some who fight on account of rage and some fight for national honour." He raised his head and said: "The person who fights to glorify and exalt the Word of Allah, his fight alone is in the Way of Allah." (Bukhari, Muslim)
3. Hazrat Abu Umama Bahali reports that a person came and asked the Prophet of Allah (peace be upon him):

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<sup>1</sup> All the sayings of the Prophet of Allah (peace be upon him) quoted in this chapter, have been taken from Bukhari, Muslim, Abu Dawood, Nasayee, Ibn Maaja, and Muatta Imam-Malik.

“What do you say about the person who participates in war for gaining monetary benefits and fame? What will he gain?” The Prophet of Allah answered: “He will not gain anything.” For the enquirer this was a very strange answer; he came back and asked the same question again. He again gave him the same answer. The enquirer was still not satisfied and came back again and again and asked repeatedly for the third and the fourth time the same question. At last to satisfy him, the Prophet of Allah said: “Allah does not accept any deed if it is not performed purely for His sake alone and to seek His pleasure by it.”

4. It is reported by Hazrat `Ubada bin Samit that once the Prophet of Allah (peace be upon him) said: “Anyone who fought in the Way of Allah and if his intention was even just to gain a rope to tie the camel, he will get only what he intended for (that is, he gets only the rope and not any reward from Allah).”
5. It is reported by Hazrat Mu`az bin Jabal that the Prophet of Allah (peace be upon him) said: “Battles are of two kinds: One who battled only to gain the approval of Allah, and in the battle obeyed his commander, spent his best possessions and desisted from mischief, then his vigil, his sleep everything is liable for reward; and the one who battled for ostentation and name and fame, and in the battle disobeyed his commander, caused mischief on the earth, then he will not return even adequately compensated (on the contrary he will be punished).”
6. Hazrat Abu Huraira says that once the Prophet of Allah said: “On the Day of Judgment three kinds of people will be judged first. First, a person who had been martyred will be brought in. Allah will remind him of His blessings and favours bestowed on him and he will admit those blessings and favours. Then Allah will ask him: ‘What did you do for Me?’ He will say: ‘I fought

for your sake till I was martyred.' Allah will say: 'You lie; you fought because you wanted people to say that that person is very brave; hence your wish has already been fulfilled.' Then Allah will order that person to be punished, and he will be dragged by his face and thrown into the Hell fire."

7. It is reported by Hazrat `Abdullah bin Mas`ood that the Prophet of Allah (peace be upon him) said: "On the Day of Judgment, a person will come holding the hand of another person and will say: 'O my Lord! He had killed me.' Allah will ask him: 'Why did you kill him?' He will say: 'I had killed him so that Honour be yours.' Allah will say: 'Indeed, Honour is for Me alone.' Then another person will come holding the hand of yet another person and will complain: 'This is the person who had killed me.' Allah will ask him: 'Why did you kill him?' He will say: 'I killed him for the honour of such and such person.' Allah will say: 'Honour was not for that person,' and he will be indicted for his sin."

These teachings cleanse the war from every kind of worldly aims and objectives. War is not permitted to be waged in the quest of name and fame, desire of honour and dominion, avarice of booty, wealth and opulence, vengeance on account of personal and national enmity and all other such worldly aims and objectives. After excluding all these things, war just remains a dry and unpleasant ethical and religious duty and no one would like to involve himself in such a dangerous and disastrous activity, and even if others were to commence acts of persecution and aggression, arms are to be taken up only when all other avenues to reform and eliminate the evil have not been exhausted. The Prophet of Allah (peace be upon him) has himself said:

*"Do not wish for an encounter with the enemy; rather beseech peace and security. However, when encountered*

*with it, fight with patience and constancy. Remember, paradise is under the shade of swords."*

### **3. Purification of the Methods of War**

Along with the purification of the objective of war, the Prophet of Allah, has reformed and purified the methods of war too, and gradually stopped all those savage activities that were undertaken during the wars of the period of ignorance, i.e. pre-Islamic era. There are many prohibitory ordinances by which all individual and collective savage acts have been forbidden.

### **4. Inviolability of Non-Combatants**

At the very outset, belligerents have been divided into two groups: one, the combatants and the other, the non-combatants. Combatants are those who actively take part in the war, or traditionally and understandably considered capable of taking part in it. The non-combatants are those who traditionally and understandably cannot take part in the war, or usually do not take part in it, e.g. women, children, the old, the sick, the wounded, the blind, the disabled, the insane, travelers, the hermits, priests of temples and places of worship, and such other harmless people. Islam has given permission to kill people belonging to the first category and has prohibited killing people of the second category.

Hazrat Rabah bin Rabee` narrates that we were with the Prophet of Allah (peace be upon him) in a battle. He noticed people had gathered around something. He summoned a person and said to him: "Go and see around what people are gathering about." That person went and after coming back reported: "People are gathered on a woman who had been killed." On hearing this, he said: "She was not one of the combatants." At that time Hazrat Khalid bin Walid was the commander of the vanguard.

Then he sent a person and instructed him: "Tell Khalid: Do not kill women and the labourers."

(Abu Dawood, Baihaqui)

According to another tradition, the Prophet of Allah prohibited killing of women and children. In another saying, the Prophet of Allah issued general instructions prohibiting killing of women and children.

In yet another tradition, Hazrat Anas bin Malik reports that while sending an armed contingent, the Prophet of Allah (peace be upon him) instructed: "March in the name of Allah and with Allah's support and His divine guidance, firmly remaining in the Brotherhood (*Millat*) of the Prophet of Allah; do not kill the very old, nor a child, nor a woman; do not embezzle but rather gather the booty in one place; correct one another and be good to others; indeed Allah loves those who do good." (Abu Dawood, Baihaqui)

During the conquest of Makkah, the Prophet of Allah (peace be upon him) had issued prior instructions: "Do not attack the wounded, do not chase the one who is fleeing to save his life, and give immunity to those who close the doors of their houses and remain inside."<sup>1</sup>

Hazrat Ibn `Abbas reports that whenever the Prophet of Allah used to send armed forces for Jihad, he instructed them: "March in the name of Allah, fight in the Way of Allah against those who do not believe in Allah. Do not cheat, do not embezzle, do not disfigure (the dead), do not kill children, nor kill the hermits and other harmless workers of churches and monasteries." (Musnad Ahmed)

From these different minor ordinances; the Islamic jurists have derived a fundamental rule that all those people who are incapable of fighting or generally considered to be incapable of fighting, are not to be considered as fighters. But this exemption is not unconditional; rather it is subject to the condition that they should not actively take part in

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<sup>1</sup> Futuh al-Buldan, p. 47.

any kind of activities concerning war. If any of them actually takes part in the activities of war, such as: a sick person, lying on the bed, guiding the armed forces and planning military strategies, or a woman spying for the enemy, or a boy trying to obtain confidential and secret information, or a member of a religious group exhorting the enemy to wage war, then killing such a person becomes lawful. Because, by joining the group of combatants, he himself has given up the rights of the noncombatants. The summary of Islamic-law in this regard is that it is lawful to kill any person belonging to the category of combatants, whether he actively fights or not; and it is unlawful to kill any person who does not belong to the category of combatants, except in the event of he actually taking part in the battle or performing activities akin to the combatants.<sup>1</sup>

### 5. Rights of the Combatants

After describing the rights of the noncombatants, it has also been described that unlimited right and freedom is not granted to use violence against the combatants against whom permission has been given to take up arms; rather limits have been prescribed which are to be adhered to. These limits are enumerated below in detail.

**(i) *Forbiddance to Attack without Warning:*** It was customary with the Arabs to attack people in the night without any warning, particularly in the tail-end of the night, when they were sound asleep. The Prophet of Allah (peace be upon him) stopped this custom and established the regulation that enemy should not be attacked before dawn. Hazrat Anas bin Malik reporting about the Battle of Khaiber says:

*"When the Prophet of Allah marched towards Khaiber he reached it in the night; whenever the Prophet reached a*

<sup>1</sup> Badaya; Fath al-Qadeer, Vol.4, pp.290-292; Badaye' al-Sanaye', Vol.7, p.101.



*community in the night, he never used to attack it until it was dawn. When it was dawn the Jews (of Khaiber) came out with their pickaxes and baskets. When they saw him (they were shocked) and shouted that Muhammad has come along with his army. Noticing their shock and bewilderment, the Prophet said: 'Allah is Great! Khaiber is destroyed; when we land on the lands of any nation, the dawn of the scared people turns out to be very bad.'*

*(Bukhari, Tirmizi, Baihaqui)*

**(ii) Forbiddance to Burn Alive:** Arabs and non-Arabs used to burn their enemies alive. The Prophet of Allah (peace be upon him) prohibited this savage act; he even prohibited burning alive any living thing including ants and similar insects. Hazrat Abdullah reports that:

*"Once we were travelling with the Prophet of Allah (peace be upon him). He went away to answer the call of nature. We saw a red-coloured bird along with its two chicks. We caught the chicks; the red-coloured bird came and spread its wings on the ground (as if pleading). When the Prophet of Allah returned, he said: 'Who has put this in distress because of her chicks; return her chicks to her.' He noticed an anthill which we had burnt down. He enquired: 'Who has burnt this?' We said: 'We did.' He said: 'It is not befitting anyone to punish by fire except the Creator of the fire.'"*

*(Abu Dawood, Darmi)*

In another Tradition, it is narrated by Hazrat Abu Huraira that:

*"Once the Prophet of Allah sent us with an armed contingent and instructed: 'If you find such and such two persons, burn them alive.' When we were about to proceed he said: 'I had ordered you to burn alive such and such persons, but no one can give punishment by fire except Allah; hence if you find them, just kill them.'"*

*(Bukhari, Tirmizi, Musnad Ahmed, Baihaqui)*

Once, Hazrat Ali had burnt alive some persons who were *zindeeqs* (heretics). On coming to know about it, Hazrat Ibn `Abbas said: "If I were to be in his place, I would never have burnt them, because the Prophet of Allah

has ordered: 'Do not punish anyone with the Chastisement of Allah.' I would have executed them as the Prophet of Allah has said: 'Any who apostates execute him'." (Bukhari, Abu Dawood, Baihaqui)

**(iii) Forbiddance to Shackle and Torture before Execution:** The Prophet of Allah has prohibited shackling and torturing the prisoners before their execution. 'Ubaid bin Y'ala reports:

*"We went to war with Abdur Rahman bin Khalid bin Walid. Four louts were seized and brought in from the enemy forces, and he ordered them to be shackled and killed; they were shackled and killed by arrows. When this news reached Hazrat Abu Ayub Ansari, he said: 'I have heard from the Prophet of Allah that he has prohibited shackling before execution. By Allah, in Whose power is my life, if it were to be even a hen, I would not have killed her in this manner.' When Abdur Rahman bin Khalid came to know about it, he freed four slaves (in repentance)."*

*(Daarmi, Musnad Ahmed)*

**(iv) Prohibition of Plunder:** The Prophet of Allah (peace be upon him) has prohibited plundering of a city or country once peace has been established after cessation of hostilities.

In the Battle of Khaiber, after the peace treaty, some new recruits of the Islamic army broke the ranks and began plundering the city. The Chief of the Jews, who was a mischievous and unruly person, came to the Prophet and addressing him in a very harsh tone said: 'O Muhammad! Is it proper for you to kill our asses, devour our fruits, and beat our women?' The Prophet of Allah got very angry about it and ordered (Abdur Rahman bin 'Auf): 'O Ibn 'Auf! Mount your horse and proclaim: Paradise is not lawful but for the Faithful, and that all of you (now) gather for prayers.' People gathered, and the Prophet led them in the prayers. After the prayers, the Prophet stood up and addressed the people:

*"Does anyone of you, sitting on the throne of arrogance, reckon that Allah has not forbidden anything else other than those things that have been forbidden in the Quran? By Allah! Indeed whatever I advise you and whatever I enjoin you and forbid you from things are also like the Quran or even more than it. Indeed, Allah has not made lawful for you to enter the homes of the People of the Book without permission, nor beat up their women, nor eat their fruits when they have already paid whatever was legally binding on them."* (Abu Dawood, Baihaqui)

On another occasion, while marching for a battle, the members of the army looted a few sheep and wanted to cook and eat the meat. When the Prophet of Allah (peace be upon him) came to know about it, he came and turned upside down all the cooking vessels, and said: "Looted and plundered goods are no better than the carrion."

It is narrated by Hazrat Abdullah bin Yezeed that the Prophet of Allah has forbidden the looted and plundered goods and assets.<sup>1</sup> If milch animals happened to be found on the way, it is not permitted even to milk them and drink the milk unless permission is not obtained from their owners. In extreme situations, it is permitted to call out loudly three times so that the owner of the animals could show himself; if no one comes forward, then it is permitted to milk the animals and drink the milk.

**(v) Prohibition of Devastation:** When armed forces advance in a country, it is common to devastate the standing crops, to destroy the farms and farmland, to torch the habitats and massacre its inhabitants. However, Islam considers these as acts of mischief and strictly forbids them. The Holy Quran avers:

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<sup>1</sup> Plundered goods/assets mean those goods taken by force while advancing in the enemy country from its inhabitants; apart from this, plundered goods also mean that booty which is taken possession of before its formal distribution.

وَإِذَا تَوَلَّى سَعَى فِي الْأَرْضِ لِيُفْسِدَ فِيهَا وَيُهْلِكَ الْحَرْثَ وَالنَّسْلَ وَاللَّهُ لَا يُحِبُّ

(البقرة: 205)

الْفَسَادُ ۝

*"When he turns his back, his aim everywhere is to spread mischief through the earth and destroy crops and progeny; but Allah loves not mischief." (The Quran, 2:205)*

The instruction not to destroy the crops and lay waste the habitats was one of the many instructions issued by Hazrat Abu Bakr, the First Caliph, while sending troops towards Syria and Iraq. However, for specific military needs and occasions, it is permitted to cut down trees and burn them to clear a field, as was done during the siege of Banu Nadheer; but doing so with the intention of just causing destruction is unanimously forbidden.

The opponents of Islam present this incident of Banu Nadheer as proof that Islam permits destruction during the course of war. Even some of our scholars of Prophet's Traditions consider this incident as the proof for justification to burn the dwellings and crops during the course of a war. However, it will be proved, when we investigate the circumstances leading to the aforesaid incident, that the cutting down and burning of the palm trees was based on military exigencies; it was not to take revenge or harm the enemy. First of all, the palm trees that were cut down according to the explanation of the Holy Quran, were of a specific kind of dates which was known as *leenah*: "لَبَنَة" (Whatever you cut down of the palm trees, or you left them standing on their roots, it was by leave of Allah<sup>1</sup>), and Suhaili says that Banu Nadheer did not consume these dates; they used to consume `Ajwa and Barni dates. Allama (Dr.) Ibn Hajar says:

*"Suhaili specifically brings out the point from the mention of لَبَنَة "leelah" that only those trees of the enemy are*

<sup>1</sup> The Quran, 59:5.

*permitted to be cut down which are not used as food, because Banu Nadheer used to eat `Ajwa and Barni, not the Leenah."*<sup>1</sup>

Moreover, the nature of the incident is not that which is usually described to be. Common narrators of the Traditions of the Prophet, noticing that the Prophet of Allah (peace be upon him) was personally present during the siege and that the troops cut down and burnt the trees in his presence, derived that this must have been done on his orders or with his permission. But, Hazrat Ibn `Abbas clearly states that because of the exigencies of the siege, Muslims began to cut down and burn the palm trees on their own. However, suddenly when it dawned on them that they did not know whether their action was lawful or unlawful, they enquired about it with the Prophet of Allah (peace be upon him); in answer to their enquiry the aforesaid Verse 5 of Chapter 59 was revealed.

Hazrat Jabir also narrates that after cutting down the trees, people came to the Prophet of Allah (peace be upon him) and enquired: "Have we committed a sin by cutting down some of the trees and leaving some standing?" On this enquiry, the aforesaid verse "*Whatever you cut down of the palm trees, or you left them standing on their roots, it was by leave of Allah,*" was revealed.

Mujahid, supporting this narration, explains that some of the Migrants began cutting down the trees and some left them standing; Allah has declared both these acts as proper through the revelation of this verse. According to this explanation, the meaning of the verse would be that those who cut the palm trees to make the siege more effective were also right and those who did not cut them thinking that it was an act of mischief were also right, because both of them followed Allah's ordinances in this regard according to their respective understanding.

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<sup>1</sup> *Fath al-Baari*, Vol. 7, p. 234.

Muhammad bin Ishaq's research is that when trees were being cut down during the Battle of Banu Nadheer, people of Banu Quraiza sent word to the Prophet of Allah (peace be upon him): "O Muhammad! You forbid mischief and say that you have come to reform. Then why are you cutting down these trees? Is it reformation?" On this, the Prophet of Allah and the other Muslims got worried, and Allah revealed this verse to pacify them, i.e.:

مَا قَطَعْتُمْ مِنْ لَيْعَةٍ أَوْ تَرَكْتُمْهَا قَائِمَةً عَلَى أَصُولِهَا فَأَبَدْنِ اللَّهُ (المحشر: 5)

*"Whatever you cut down of the palm trees, or you left them standing on their roots, it was by leave of Allah."*

*(The Quran, 59:5)*

Anyhow, from the investigation of the incident it is established that the Prophet of Allah had not issued orders to cut down the trees; rather the troops, for the operational exigencies of the siege, were forced to cut down a few trees on their own and without any permission, and later on, Allah declared this act to be proper as the intention of the people who had cut down the trees was not to cause mischief and destruction. Some of the Islamic jurists have derived from this that this permission was specific only for this particular occasion, and that from this specific ordinance, a common law cannot be derived that whenever military operations or needs demand, trees be cut down and burnt. Hence, Imam Awza'yee, Imam Lais and Imam Abu Saur, hold this opinion. But majority of the Islamic Jurists are of the opinion that it is lawful to do so in military exigencies only to the extent a particular situation demands. As far as doing it with the intention of destruction and mischief, everyone agrees that it is unlawful. Allama (Dr.) Ibn Jareer, countering the opinion of Imam Awza'yee and Imam Lais, writes:

*"Prohibition is indeed for willful destruction, not for that loss or destruction which is occasioned during a battle, as happened during the stoning of Taif by catapults."*

Imam Ahmed too has similar opinion. He says:

*"This can be done only when it is absolutely necessary to cut down and burn; otherwise, it should not be burnt without any cause."*

This kind of indispensable destruction cannot be objected upon. Modern Laws of War also permit cutting down trees, destruction of buildings and even burning down the habitats in order to render a siege successful and not allow the besieged to take refuge behind trees and buildings.<sup>1</sup> This sort of destruction has also been allowed in the today's laws of war.

**(vi) Prohibition of Mutilation:** Islam has strictly prohibited dishonouring and mutilating the dead bodies of the enemy. Hazrat Abdullah bin Yazeed Ansari reports that:

*"The Prophet of Allah has forbidden plundered wealth and mutilation."* (Bukhari, Abu Dawood, Darmi)

The Prophet of Allah (peace be upon him) while giving instructions to the troops being sent on armed expeditions, always stressed:

*"March in the name of Allah and fight those who do not believe in Allah, but do not break covenants, do not pilfer the booty, and do not mutilate, and do not kill any child."*

(Muslim, Abu Dawood, Tirmizi)

**(vii) Prohibition to Kill Prisoners of War:** At the conquest of Makkah, the Prophet of Allah had made an announcement amongst his troop to the effect that:

*"No wounded should be attacked, no fleeing person should be chased, no prisoner should be killed, and the one who closes the doors of home will be given immunity."*<sup>2</sup>

Once, Hajjaj bin Yousuf, ordered Hazrat Abdullah bin Umar to kill a prisoner. He said: "Allah has not permitted us to do so. However, he has ordered us that if the prisoners are arrested and brought in, either we have to treat them with kindness or release them after receiving ransom."<sup>3</sup>

<sup>1</sup> Lawrence, T. J., *Principles of International Law*, p. 441.

<sup>2</sup> *Futuh al-Buldan*, p. 47.

<sup>3</sup> This is the general law about prisoners of war. However, if violent enemies of Islam, or those who had severely oppressed and terrorized Muslims, or those

**(viii) Prohibition to Kill Envoys and Messengers:** The Prophet of Allah has forbidden killing of envoys and messengers. When the messenger of Musailama Kazzab, `Ubada bin al-Haris, came to the Prophet of Allah with his insulting message, the Prophet of Allah said to him:

*"If it had not been unlawful to kill the messengers, I would have beheaded you."* (Abu Dawood, Musnad Ahmed)

On the basis of this underlying principle, the Islamic jurists have derived the law that if a person, on reaching the borders of an Islamic State, declares that he is an envoy of such and such State and that he has been sent to deliver a message to the head of the Islamic State, he should be permitted to enter with peace and security; he should not be ill-treated; his servants, his wealth and property and even his weapons should be given protection, except when he is not able to prove his bona fides.<sup>1</sup> Certain Jurists are also of the opinion that such a person cannot be punished according to the Islamic criminal laws even if he commits adultery and theft while residing in the Islamic State.

**(ix) Forbiddance to Breach Covenants:** There are many Traditions of the Prophet pertaining to the badness of betrayal, breach of contracts and covenants, and oppression of covenantees, based on which these acts have been declared the most heinous crimes and sins in Islam. Hazrat `Abdullah bin Mas`ood reports that the Prophet of Allah (peace be upon him) said:

*"Anyone who kills a covenantee will not get to smell even the fragrance of Paradise, although its fragrance can be smelt at a distance of 40 years."* (Bukhari, Tirmizi)

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evil leaders of oppression and persecution who were responsible for the spread of mischief, were to get arrested and brought in as prisoners, the Islamic State has every right to order their execution, as was done by the Prophet of Allah when he got executed `Uqba bin Abi Mu`et from amongst the prisoners of the Battle of Badr. But this will be done by the Islamic State in an open and unbiased manner; it will not enact the drama of prosecuting the "criminals of war" as was done by the Allies after the World War II.

<sup>1</sup> *Kitab al-Khiraj*, p. 106.



In another Tradition, it is reported by Hazrat `Abdullah bin `Amr that the Prophet of Allah (peace be upon him) said:

*"There are four attributes; whoever is found to have in him these would be a clear hypocrite: One is that when he speaks, he lies; second, when he promises, he goes back on it; third, when he enters into a contract, he breaks it; fourth, when he quarrels, he abuses."*

*(Bukhari, Muslim, Abu Dawood, Tirmizi)*

In yet another Tradition, it is reported by Hazrat Abu Sayeed that the Prophet of Allah (peace be upon him) said:

*"On the Day of Judgment, for every traitor and betrayer a flag of the height of his extent of betrayal would be raised (to announce his treachery and betrayal); remember, there is no treachery greater than the treachery of the leader of a nation."*

*(Muslim)*

There was a peace treaty between Ameer Mu`awiya and the people of Rome. Once, Ameer Mu`awiya was marching towards the Roman territory so that he could attack it as soon as the period of the treaty expired. Meanwhile, a person came riding on a horse or donkey saying: "Allah is Great! Fulfil, do not breach," and he was `Amr bin `Abasa. When Ameer Mu`awiya asked him about the matter, he said that I have heard the Prophet of Allah saying: "Whoever has entered into a treaty with another nation should not effect any changes in it until its period has not expired; or in the event of fear of breach, proper notice of abrogation of the treaty on equal terms should be given." It is said that Mu`awiya turned back with his troops. (Tirmizi, Abu Dawood, Musnad Ahmed)

It should be noted here that merely marching towards the borders of the enemy territory during the period of the peace treaty was considered breach of the covenant by the Companion of the Prophet and he came riding to warn about it and restrain the Head of the Islamic State, who eventually acquiesced to the Saying of the Prophet of Allah (peace be upon him) and pulled back his troops.

**(x) Prohibition of Indiscipline and Disorder:** It was customary with the Arabs that when they set out for battle, they used to harass people on the way, and when they camped they used to spread all over the place in a disorderly manner to the extent that people could not even walk on the paths and roads. The Prophet of Islam (peace be upon him) prohibited this.

It is reported by Mu'az bin Anas that: "I was with the Prophet of Allah (peace be upon him) in such and such battle. People cramped the camp sites and began looting the wayfarers. (On coming to know about it), the Prophet got the announcement made that: "Whoever cramps the camp sites or loots the wayfarer, his Jihad will not be accepted." (Abu Dawood)

Abu Sa'iba Khushani says that whenever people used to camp, they used to spread over and camp in the valleys and gorges. On one such occasion, the Prophet of Allah (peace be upon him) said: "Your scattering like this in the valleys and gorges is an act of Satan." After this, people never used to camp in a disorderly manner; rather they used to camp in such a close-knit fashion that if a sheet of cloth were to spread over them they would have all come underneath it. (Abu Dawood)

**(xi) Prohibition of Raising Din and Clamour:** There used to be so much din and Clamour in the battles waged by the Arabs that, war was also known by the name of *وغي* ("wagha") meaning "din and Clamour." After embracing Islam, the Arabs wanted to continue with this habit, but the Prophet of Allah (peace be upon him) did not permit it. Hazrat Abu Musa Ash'ari reports that:

*"We were with the Prophet of Allah (peace be upon him) and whenever we landed on a valley, we used to very loudly proclaim and exult Allah's glorification and eminence. On this the Prophet of Allah (peace be upon him) said: "O people, march with dignity; the One whom you are calling is neither deaf nor absent; He is with you and hears everything, and He is very near to you." (Bukhari)*

## 6. General Instructions against Savage Acts

The system of giving instructions about the martial behaviour at the time of departure of the troops, with which the Western world was unaware of till the middle of the nineteenth century A.D., was actually invented by the illiterate Prophet of Arabia in the seventh century A.D. itself. It was his routine that whenever the Prophet of Allah (peace be upon him) used to send a contingent for a battle, he used to issue necessary instructions to its commander and his troops. Hence, it is reported by Hazrat Buraida that:

*"Whenever the Prophet of Allah (peace be upon him) appointed a person as a commander of an army or a military detachment, he used to particularly instruct him to fear Allah and treat well his accompanying Muslims and then say: "March in the name of Allah and fight those who do not believe in Allah, but do not break covenants, do not pilfer the booty, and do not mutilate, and do not kill any child."* (Muslim, Abu Dawood, Tirmizi)

After this, he used to instruct the troops:

*"Present three things before the enemy: first, Islam; second, Jiziya; third, war. If they accept Islam then do not attack them; if they accept subjugation by paying Jiziya, do not transgress on their life and property; but if they refuse this too, seek help from Allah and wage war against them."*

When the First Caliph, Hazrat Abu Bakr, sent troops towards Syria, he gave ten instructions, which have been reported and recorded by all the historians and the scholars of the Traditions. Those instructions are:

1. Women, children and the old should not be killed.
2. Dead bodies should not be mutilated.
3. Hermits and monks should not be harassed, nor their places of worship be demolished.
4. No fruit-bearing trees should be cut, nor the crops be burnt down.
5. Habitats should not be desolated.
6. Animals should not be killed.

7. Breach of covenants/agreements should be avoided at all costs.
8. The lives and properties of those who have accepted subjugation should be made as inviolable as the lives and properties of Muslims.
9. Do not pilfer the booty.
10. Do not turn back and flee from the battlefield.

## **7. Results of the Reformation**

On studying the aforesaid ordinances and instructions, it is evident that Islam has cleansed the war from all those savage acts which had become its indivisible part and parcel during pre-Islamic era. Killing of prisoners of war, envoys, covenantees, the wounded, the non-combatants; mutilation and dishonouring the dead; torture by fire; plunder and blockage of thoroughfares; destruction of crops and habitats; breach of covenants and treaties; indiscipline of the troops; Clamour and din during the battle and all such things were declared forbidden and against the laws of war, and the war remained just a thing to be used by noble and brave men only to annihilate the evil with minimum of loss and injury to the enemy.

The best example of the great results produced by these reformatory teachings, in a short period of eight years, can be found in the conquest of Makkah. Just keep in mind what used to happen, not only in the wild Arabia but also in the civilized Rome and Iran, when one power was victorious over another power and particularly when a large city of the enemy was conquered, and then ponder at what happened during and after the conquest of Makkah. The same Arabs, who a few years ago were accustomed to the modes and methods of the pre-Islamic era, entering Makkah as its conquerors where they had been put to years of untold sufferings and misery and were finally driven out, and gaining victory over the very enemies who were not contented with just driving them out of their hearths and

homes, but had attacked several times to drive them out from the very city where they had taken refuge, neither massacre the inhabitants, nor plunder the city, nor violate the life, honour and property of anyone, nor take revenge against the longtime and cruelest of the enemies, and only 24 persons were killed during the entire operation of the conquest and that too because of the offensive operations of the opposite party. The Prophet of Allah (peace be upon him), who was the Commander of the army, had made an announcement before entering Makkah to the effect that no one should be attacked unless he was attacked. As soon as they entered the city, it was announced that whoever closed the doors of his home and remained inside would be granted quarter; whoever surrendered his arms would be given quarter; and whoever took refuge in the house of Abu Sufiyan would also be granted quarter. After the completion of the conquest, all those adversaries were brought, one by one, before the victorious commander. These were the very people who had tortured and put him to untold miseries and sufferings for thirteen long years in that very city, eventually forcing him to flee, and who even after driving him out had waged war with all their might and main in the battlefields of Badr, Uhud and Ahzab to annihilate him and his religion from the face of the earth. These adversaries stood before him with bowed heads. The conqueror asked them: "What do you think I am going to do with you?" The conquered with utmost shame pleaded: "Kindness and generosity, O noble and generous brother, son of the noble and generous brother." On this pleading, the Conqueror (peace be upon him) declared: "There is no blame and censure on you today; go, you are all free." It was not that just their lives were spared but even the properties of the Conqueror and some of the members of the conquering army which had been usurped by the enemy eight years ago were not reclaimed and were allowed to be retained by them.

However, there were some very notorious adversaries whose oppression and tyranny had been unbearable and had transgressed every limit. The Conqueror (peace be upon him), before entering the city, had given orders that whoever amongst them was caught should be killed. But when they were caught, they were also not deprived of the generosity of that noble and generous personality; Hibar bin Aswad, who had killed the young Zainab, daughter of the Conqueror, embraced Islam with all humility and was pardoned; Wahshi bin Harab who had killed the dearest uncle of the Conqueror, Hamza, embraced Islam and was also pardoned. Hind bint `Atba who had removed and chewed the liver of Hazrat Hamza after his martyrdom, in spite of her bestiality, got immunity from the rage of the Conqueror and was ultimately granted forgiveness. The greatest and the most notorious enemy of Islam, Abu Jahl's son, Ikrama, who himself was a great enemy of Islam, embraced Islam and joined the ranks of the most eminent Companions of the Prophet of Allah. Apart from these, Abdullah bin Abi Sarah, Saarah, and Ka'b bin Zuhair, who were all blood-thirsty enemies of the Conqueror were forgiven. Only Huwairas bin Naqeeh, `Abdul `Uzza bin Khatal, and Muqais bin Sababa were executed, that too not on account of enmity but on charges of murder.

This was the reformation that was carried out in just eight years amongst the most savage people of the world. Even in this age of civilization and refinement, when the most civilized nations of the world enter victoriously an enemy city, everyone knows how cruelly and barbarically the inhabitants of the captured city are treated. Everyone remembers the widespread destruction and oppression caused by the flag bearers of the Western civilization during the First and Second World Wars when they invaded each other's territories. As against this, just ponder how strong and effective had been the reformation, how lofty had been the ethical training, and how precise and

tough had been the military discipline that resulted in an Arabian illiterate and nomadic people treating nobly and humanely the inhabitants of the captured city of their worst enemies in the dark age of about 1400 years ago when the banner of civilization was in the hands of kings like Khusroo Parviz and Heraclius.

## **CIVILIZED LAWS OF WAR (AS PRESCRIBED BY ISLAM)**

So far we have discussed about the evil practices of war that were in vogue and which Islam reformed. Now, we would like to throw light on those things which were not known to the world and which Islam introduced and brought into force. We want to look at the kinds of laws that Islam promulgated after abolishing the evil and bad laws of war. For this purpose, we would take up the basic and fundamental ordinances on which the foundation of laws of war has been laid down. As regards the subsidiary laws, they have been left to the leaders and jurists of the time to derive such laws from these fundamental and basic laws according to the requirement and exigencies of the time. Therefore, there is no need to rely on the subsidiary laws that have been mentioned in the old books of Islamic jurisprudence:

### **1. Obedience of the Leader (Imam)**

To bring the war under a regulation, the first thing that Islam did was that it created a nucleus in the military system and promulgated a strong and robust regulation of "I hear and obey" in the army. Amongst the Islamic laws of war, the first and the most important law is that not even a very minor military operation can be undertaken without the express permission of the Imam. In spite of having been made killing of the enemy, taking possession of his property, imprisoning him, and destroying his weapons basically lawful, it becomes not only unlawful but a sin if

done without the permission and orders of the Imam. Before the Battle of Badr, when Hazrat Abdullah bin Jahash, without the permission of the Prophet of Allah (peace be upon him), clashed with a contingent of Quraish, the Prophet of Allah got very angry with him and declared the booty brought by Abdullah as unlawful. The Companions of the Prophet also reproached him by saying: "You did that which had not been ordered." Hazrat Khalid bin Walid was sent to the tribe of Bani Juzaima for propagation of Islam. Because of some misunderstanding he started killing members of the tribe. When the Prophet of Allah (peace be upon him) came to know about it, he was enraged. He called Hazrat Ali and ordered him: "Go to these people; study the situation and trample this act of ignorance under your feet."<sup>1</sup>

Islam has declared obedience of Imam very essential and considers it as equivalent to the obedience of Allah and His Prophet. In one of the Traditions, it is reported by Hazrat Mu'az bin Jabal that the Prophet of Allah (peace be upon him) said:

*"Battles are of two kinds: One who battled only to gain the pleasure of Allah, and in the battle obeyed his commander, spent his best possessions and desisted from mischief, then his vigil, his sleep everything is liable for reward; and the one who battled for ostentation and name and fame, and in the battle disobeyed his commander, caused mischief on the earth, then he will not return even adequately compensated (on the contrary he will be punished)."*

In another Tradition, it is reported that the Prophet of Allah (peace be upon him) said:

*"One who obeyed me he indeed obeyed Allah; and one who disobeyed me he indeed disobeyed Allah. One who obeyed the leader he indeed obeyed me; and one who disobeyed the leader indeed he disobeyed me."*

*(Bukhari, Muslim, Nasayee)*

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<sup>1</sup> *Fath al-Baari*, Vol. 8, p. 42.



These assertive ordinances brought discipline and regulation to war operations. It no longer remained just a playful thing where every soldier was the master of the life and property of the people and was free to slaughter and plunder. In the pre-Islamic era, the soldiers used to loot and plunder freely, and after invading the enemy country, every soldier had the authority to kill whosoever he wanted to kill and loot, burn down whichever village or crop, and do whatever he wanted to do in order to destroy the people of the enemy. Even the army of Alexander, which is famous for discipline, was not an exception; while invading and advancing into Iran, the way in which they had destroyed the country with impunity is well recorded and preserved in the annals of history. But the rules and regulations, which Islam has promulgated for the army, refuse to give such freedom and impunity for individual soldiers of its army, because in the sight of Islam shedding human blood is a very great act of responsibility which neither everyone is capable of bearing nor can everyone is capable of deciding its essentiality and non-essentiality and the appropriate situation in which human blood should be shed. Under the Islamic laws of war, the leader or commander has been made fully responsible for all kinds of war operations and has been given full authority to command and interdict, and his obedience has been made mandatory on the entire army to the extent that an individual soldier has not been given even the authority to pluck and eat a fruit from the tree of enemy country without the permission of the commander.

## **2. Fulfilment of Contracts and Covenants**

Islamic law strictly instructs fulfilment of contracts and covenants both in the time of war and peace. In fact, one of the fundamentals of Islamic ethics is that man should remain firm on his commitment, contract or covenant even in the event of dire exigencies. However great may be the gain from breach of contract or commitment, and however

great may be the loss by remaining committed to the contract, in either situation, Islam instructs its followers to give up the gain and endure the loss, because neither the greatest gain from breach of contract can compensate the loss that accrues to the spiritual and ethical wellbeing of man, nor the loss incurred while fulfilling the contract and covenant will ever decrease the spiritual and ethical gains derived which are closely related to each other as twins. As this fundamental principle applies to a person's individual and personal life, so also it applies to the collective and national life of the people. Now-a-days, it has become customary that a nation, in its collective life, has no qualms in carrying out such deeds and does not consider them a flaw, which a person considers very shameful in his personal life. The statesmen of the states, however honest, civilized and ethically lofty they might be in their personal lives, consider it lawful and legitimate to lie, deceive, and breach the covenants and treaties for the advantage and benefit of their states and people, and the states who claim to be the most civilized, carry out these deeds with such audacity as if they are not at all condemnable. But Islam, in this respect, does not differentiate between an individual and a group, or between the state and its subjects, or between a person and a nation, and declares unlawful breach of contracts and covenants at all times and in all circumstances whether it is done for personal gains or for the advantage and benefit of a nation. The Holy Quran avers:

وَأَوْفُوا بِعَهْدِ اللَّهِ إِذَا عَاهَدْتُمْ وَلَا تَنْقُضُوا الْأَيْمَانَ بَعْدَ تَوْكِيدِهَا وَقَدْ جَعَلَهُمُ  
 اللَّهُ عَلَيْكُمْ كَفِيلًا ۖ إِنَّ اللَّهَ يَعْلَمُ مَا تَفْعَلُونَ ۝ وَلَا تَكُونُوا كَالَّذِينَ نَقَضَتْ  
 غُرْلَهُمَا مِنْ بَعْدِ قُوَّةٍ أَنْكَاهُ تَتَّخِذُونَ أَيْمَانَكُمْ دَخَلًا بَيْنَكُمْ أَنْ تَكُونَ أُمَّةٌ هِيَ  
 أَرْبَىٰ مِنْ أُمَّةٍ ۚ

(الحمل: 91-92)

*"And fulfil the Covenant which you have made with Allah and do not break your oaths after having firmly made them,*

*and after having made Allah your witness. Surely, Allah knows all that you do. And do not become like the woman who, after having painstakingly spun her yarn, caused it to disintegrate into pieces. You resort to oaths as instruments of mutual deceit so that one people might take greater advantage than another."* (The Quran, 16:91-92)

Many Verses concerning this topic have been revealed in the Holy Quran; here it is not the intention to cover all of them. Just to explain and make the instructions more clear, a few of these Verses are quoted here.

الَّذِينَ يُوْفُونَ بَعْدَ اللَّهِ لَا يَنْقُضُونَ الْمِيثَاقَ ۖ وَالَّذِينَ يَصِلُونَ مَا أَمَرَ اللَّهُ  
بِهِ أَنْ يُؤْتَلَ... أُولَٰئِكَ لَهُمْ عِزِّي الدَّارِ ۖ (الرعد: 20, 21, 22)

*"Those who fulfil the Covenant of Allah and fail not in their plighted word, those who join together those things which Allah has commanded to be joined... for such there is the final attainment of the (Eternal) Home."*

(The Quran, 13:20, 21, 22)

بَلَىٰ مَنْ أَوْفَىٰ بِعَهْدِهِ وَاتَّقَىٰ فَإِنَّ اللَّهَ يُحِبُّ الْمُتَّقِينَ ۖ إِنَّ الَّذِينَ يَشْتَرُونَ بِعَهْدِ  
اللَّهِ وَأَيْمَانِهِمْ ثَمَنًا قَلِيلًا أُولَٰئِكَ لَا خَلَاقَ لَهُمْ فِي الْآخِرَةِ وَلَا يَكَلِمُهُمُ اللَّهُ وَلَا  
يَنْظُرُ إِلَيْهِمْ يَوْمَ الْقِيَمَةِ وَلَا يُزَكِّيهِمْ وَلَهُمْ عَذَابٌ أَلِيمٌ ۖ (ال عمران: 76-77)

*"Nay, those that keep their plighted faith and act aright, verily Allah loves those who act aright. As for those who sell the faith they owe to Allah and their own solemn plighted word for a small price, they shall have no portion in the Hereafter; nor will Allah (deign to) speak to them or look at them on the Day of judgment, nor will He cleanse them (of sin); they shall have a grievous Chastisement."*

(The Quran, 3:76-77)

وَالْمُوفُونَ بِعَهْدِهِمْ إِذَا عَاهَدُوا ۖ وَالصَّابِرِينَ فِي الْبَأْسَاءِ وَالضَّرَّاءِ وَحِينَ  
الْبَأْسِ أُولَٰئِكَ الَّذِينَ صَدَقُوا ۖ وَأُولَٰئِكَ هُمُ الْمُتَّقُونَ ۖ (البقرة: 177)

*"And those who fulfil the contracts which they make and who remain firm and patient in pain (or suffering) and*

*adversity and throughout all periods of war and panic; such are the people of truth, the God-fearing."*

(The Quran, 2:177)

وَإِذَا قُلْتُمْ فَاعْبُدُوا وَلَوْ كَانَ ذَا قُرْبَىٰ وَبِعَهْدِ اللَّهِ أَوْفُوا ذَٰلِكُمْ وَضَعَكُم بِهِ  
لَعَلَّكُمْ تَذَكَّرُونَ ﴿١٥٢﴾ (الأنعام: 152)

*"Whenever you speak, speak justly, even if a near relative is concerned; and fulfil the Covenant of Allah; thus does He command you that you may remember."* (The Quran, 6:152)

وَأَوْفُوا بِالْعَهْدِ إِنَّ الْعَهْدَ كَانَ مَسْئُولًا ﴿٣٤﴾ (الاسراء: 34)

*"And fulfil (every) covenant, for (every) covenant will be enquired into (on the Day of Judgment)."* (The Quran, 17:34)

The practical example of this teaching was demonstrated by the Prophet of Allah (peace be upon him) by his conduct, a study of which shows us the great value that Islam places on the fulfilment of covenants. In the Battle of Badr when the number of Unbelievers was thrice than the Muslims and to augment their numbers Muslims were in need of each and every person, Huzaifa bin al-Yeman and his father, Husail bin Jabir, proceeded to join the Islamic forces. On the way, the Unbelievers stopped them and said to them that surely they must be going to join Muhammad. They said that they were going to Madinah. Then the Unbelievers took an oath from them in the name of Allah that they would go to Madinah and would not participate in the battle. These two gentlemen, after getting released from the Unbelievers, straight away went to the Prophet in the battlefield of Badr and informed him about the incident. On hearing this, the Prophet of Allah said: "Both of you return back to Madinah; we will fulfil the oath and seek help against them from Allah." (Musnad Ahmed)

In the Peace Treaty of Hudaibiya, one of the conditions which were agreed upon was that if any person was to flee from Makkah and join the Muslims in Madinah, he would be returned back; and if a Muslim went to Makkah he

would not be returned back. This Treaty was still being written when Abu Jandal bin Suhail approached the Islamic forces after somehow escaping from the jail of the Unbelievers of Makkah; his feet were fettered, there were marks of beating on his body, and effects of great pain and suffering were evident from his face. He came before the Prophet of Allah (peace be upon him) and pleaded: "For Allah's sake, release me from this suffering and misery." Muslims got very perturbed when they saw the condition of Abu Jandal. Fourteen hundred swords were ready to be drawn at the signal of the Prophet and the Islamic brotherhood was anxious to release one of its brethren from the imprisonment. But the conditions of the treaty had already been agreed upon and the treaty was being written. Hence, the Prophet of Allah refused to get Abu Jandal released and just said: "O Abu Jandal! Be patient; Allah will surely plan a way out for your release."

When the Prophet returned to Madinah, another Muslim, Abu Baseer escaped from the prison of Makkah and reached him. But two persons from Makkah also followed him to Madinah and demanded that Abu Baseer be returned back. Although the Prophet of Allah knew that how badly and viciously Muslims were being treated in Makkah and how cruelly, particularly, the escaped prisoner would be treated, fulfilment of the treaty was more important for him than everything else and, therefore, he returned back the oppressed Muslim and did not breach the conditions of the treaty.

We find many such incidents both in the era of Prophet Muhammad (peace be upon him) and his Companions which are difficult to be encompassed here.

### **3. Rights of the Neutrals**

In Islam there is no separate terminology for neutrality; it has been made part and parcel of the treaties and covenants. The Islamic Law divides all non-Muslim nations

into two groups: One with whom it has a treaty and the other with whom it does not have a treaty. As long as the signatories remain faithful to the terms and conditions of their respective treaties, they will be treated according to those terms and conditions, and during the war they will not be disturbed and bothered; this is what neutrality means under Islamic Law. As regards the others with whom Islam does not have a peace treaty, although they might not be practically on war, they are all considered, theoretically, as on war, because Islam has not recognized any middle position between aggression and non-aggression as far as non-Muslim nations are concerned.

The signatory-nations are treated according to the terms and conditions of the respective treaties; but as far as issues of war are concerned, Islam has stipulated some fundamental rights for these signatory-nations:

1. As long as the signatory-nation remains faithful to the terms and conditions of the treaty, it is strictly unlawful for Muslims to commit any kind of aggression against it.

إِلَّا الَّذِينَ عَاهَدْتُمْ مِنَ الْمُشْرِكِينَ ثُمَّ لَمْ يَنْقُضُوا عَهْدَكُمْ شَيْئًا وَلَمْ يُظَاهِرُوا عَلَيْكُمْ أَحَدًا فَأَتِمُوا إِلَيْهِمْ عَهْدَهُمْ إِلَىٰ مُدَّتِهِمْ إِنَّ اللَّهَ يُحِبُّ الْمُتَّقِينَ ۝

(التوبة: 4)

*"(But the treaties are) not dissolved with those Pagans with whom you have entered into alliance and who have not subsequently failed you in aught, nor aided any one against you. So fulfil your engagements with them to the end of their term; for Allah loves the righteous."*

(The Quran, 9:4)

2. If a group of Muslims happens to live in the country of a signatory-nation and if they are being oppressed there, the Islamic government cannot extend any help to them:

وَإِنْ اسْتَنْصَرُوكُمْ فِي الدِّينِ فَعَلَيْكُمُ النَّصْرُ إِلَّا عَلَىٰ قَوْمٍ بَيْنَكُمْ وَبَيْنَهُمْ مِّيثَاقٌ وَاللَّهُ بِمَا تَعْمَلُونَ بَصِيرٌ ۝

(الأنفال: 72)

*"But if they (Muslims living in a non-Islamic State) seek your aid in religion, it is your duty to help them, except against a people with whom you have a treaty of mutual alliance. And (remember) Allah sees all that you do."*<sup>1</sup> (The Quran, 8:72)

3. During the course of a war the borders of the signatory-nation cannot be transgressed. Even if the enemy happens to flee and take refuge in the territory of the signatory-nation, the Islamic forces cannot enter the territory while chasing the enemy.

فَإِنْ تَوَلَّوْا لَعَنَ اللَّهُ أَفْئِدَتَهُمْ وَأَقْصَبَهُمْ حَيْثُ وَجَدْتُمُوهُمْ وَلَا تَتَّخِذُوا مِنْهُمْ وَلِيًّا  
وَلَا تَصِدُّوهُمْ إِلَّا الَّذِينَ يَصِلُونَ إِلَى قَوْمِ بَيْنَكُمْ وَبَيْنَهُمْ مِيثَاقٌ (النساء: 90-89)

*"But if they turn renegades, seize them and slay them wherever you find them; and (in any case) take no friends or helpers from their ranks, except those who join a group between whom and you there is a treaty (of peace)."*

(The Quran, 4:89-90)

These fundamental regulations are the foundations of the law. Subordinate clauses of law can be derived from them whenever required.

#### 4. Proclamation of War

If a nation breaches the terms and conditions of a treaty and adopts inimical attitude towards the Islamic government, the Islamic law in this regard is that such a nation should be given an official ultimatum and after giving sufficient time to fulfil the terms and conditions of

<sup>1</sup> It means that such Muslims cannot be helped to the extent of providing them with military aid and no steps can be taken in their support and aid which fall under the definition of wrongful interference in the internal affairs of a country. But it does not mean that if the Muslims living in a non-Muslim State are being oppressed, the Muslims living in a Muslim State should just sit and coolly watch and do nothing. No; they just cannot break the treaty, apart from which they can and should do whatever they can to help their oppressed brethren by extending moral, material and political support to them which are within the ambit of the respective international laws and the terms and conditions of the respective treaty.

the treaty, war should be declared against it. The Holy Quran instructs:

(الأنفال: 58) *وَأَمَّا خِفَافٌ مِنْ قَوْمٍ خِيَانَةٌ فَانْزِلْ إِلَيْهِمْ عَلَى سَوَاءٍ*

*"If you fear treachery from any group, throw back (their Covenant) to them, (so as to be) on equal terms."*

(The Quran, 8:58)

The exegetes of the Quran have described the meaning of "throwing back the covenant so as to be on equal terms" as to inform very clearly to the signatory of the treaty that their inimical activities are such that the treaty between us does not exist anymore, after which it is to be observed whether they desist from their activities or not. If they do not desist then war is to be declared against them. Allama (Dr.) Ibn Hajr says:

*"That is, throw back their covenant to them, and it is done by sending word through someone that the treaty has been nullified."*

Allama Ibn Katheer says:

*"That is, inform them that you have terminated the treaty so that you and they be on equal terms in the knowledge that now you have become their enemy and they have become your enemy, and that no treaty exists between you and them anymore."*

Zuhri says:

*"When you have a treaty with a nation, and if you are apprehensive of breach of the treaty, do not attack them on mere apprehension; rather first warn them."<sup>1</sup>*

The Islamic Jurists do not consider it enough just to inform about the nullification of the treaty; rather they also recommend that the nation which had breached the treaty should be given time so that if it wanted to reform its inimical attitude it could do so. The real spirit behind the

<sup>1</sup> Exception to this general rule is the situation where the other party to the treaty committing very clear breach of the treaty or taking unilateral military action as the Unbelievers of Makkah did; in such situations Islamic government will have the right to attack without proclamation of war as was done by the Prophet of Allah (peace be upon him) during the conquest of Makkah.



Islamic law in this regard can be gauged from an incident which occurred in the early period of Islamic history, pertaining to which we find, fortunately, many rulings from eminent and leading Islamic Jurists of the time. During the reign of `Abdul Malik bin Saleh when the people of Cyprus breached the treaty, he solicited rulings from leading Jurists like Lais bin Sa`d, Malik bin Anas, Sufiyan bin `Ayiniya, Musa bin A`yun, Ismael bin `Ayyash, Yehya bin Hamza, Abu Ishaq Fazari, etc. by posing the question whether the law in the Verse *فَانْزِلْهُمْ عَلَى سَوَاءٍ* ("throw back (their Covenant) to them, (so as to be) on equal terms") be applied in this respect or not, and if it can be applied in what manner it should be applied. On this question, a few of the edicts given by the Jurists are given below:

Lais bin Sa`d wrote:

*"They be given a time of one year so that whoever wishes to come and settle in the Islamic territories as a Zimmi (protectee) could come and settle here, whoever wishes to migrate to the Roman territories could go there, and whoever wishes to remain in Cyprus and fight, you have every right to fight him."*

Imam Malik wrote:

*"In my opinion there should not be any haste in the termination of the treaty; rather we should conclude our argument over them. Allah says: فَآيْمُوا إِلَيْهِمْ غَيْرُهُمْ إِلَى مُلْتَحِمٍ ("So fulfil your engagements with them to the end of their term"). Hence, even after being given sufficient time, if they do not desist and insist on remaining unfaithful and when you find that the guilt has been established on them, then you have the authority to attack them."*

Musa bin A`yun wrote:

*"Before this whenever such kinds of incidents occurred, the authorities have always been given time. It is entirely possible that the common people of Cyprus are not involved in what their elites are doing. Therefore, it is my opinion that the treaty be retained and the terms and conditions of*

*the peace be fulfilled, even though there are some mischievous people amongst them."*

It is also the edict of Hazrat `Umar in this regard that the signatories of the treaties must be given enough time. During his caliphate, `Umar bin Sa'd wrote to him: "In our territory there is a place called Arabsoos and its inhabitants convey our confidential and secret information to our enemies and do not give us any information pertaining to our enemies." Hazrat `Umar wrote to him: "First of all, you go and tell them that if you vacate this place, we will give you two sheep for one sheep, two cows for one cow and similarly two things for everything. If they agree, it is better. Otherwise, inform them that the treaty between you and us is null and void, and give them time of one year, after the expiry of which evict them."<sup>1</sup>

## 5. Prisoners of War

It is mentioned above that Islam has prohibited execution of prisoners of war. However, it is not just this favour that has been granted to them under the Islamic law; rather it has been further ordained that they should be treated with mercy and kindness. In the Holy Quran, feeding the prisoners, the indigent and the orphans has been praised and declared as the deed of the righteous.

وَيُطْعَمُونَ الظَّعَامَ عَلَى حُبِّهِ مِسْكِينًا وَيَتِيمًا وَأَسِيرًا ۝ إِمَّا نُنْطَعِبُكُمْ لَوْ جَاءَ  
 اللَّهُ لَا تَرِيدُ مِنْكُمْ جَزَاءً وَلَا شُكُورًا ۝ إِنَّا نَخَافُ مِنْ رَبِّنَا يَوْمًا عَبُوسًا  
 قَتَطِيرًا ۝

(الدھر: 8-10)

*"And they feed, for the love of Allah, the indigent, the orphan, and the captive, (saying): 'We feed you for the sake of Allah alone; no reward do we desire from you, nor thanks. We only fear a Day of frowning and distress from the side of our Lord.'"*  
 (The Quran, 76:8-10)

<sup>1</sup> Futuh al-Buldan al-Balazari, pp. 162-163.

The Prophet of Allah (peace be upon him) always advised to treat with kindness the oppressed and the prisoners. When some of the persons who, for 13 long years, had persecuted and tortured the Prophet and other Muslims and had forced them to flee Makkah, were brought in as prisoners after the Battle of Badr, the Prophet of Allah (peace be upon him) instructed his Companions to treat them with kindness and generosity. The Companions complied with this instruction in such a fashion that they fed the prisoners with better food than what they ate and provided them with every possible comfort; even some of the Companions used to eat just dates and feed the prisoners with bread and curry. When prisoners had no wearable clothes, the Prophet got them clothes although Muslims themselves were in very straitened circumstances at that time. Amongst these prisoners there was a person named Suhail bin `Amr who was a very eloquent person and used to deliver speeches full of venom against the Prophet. Hazrat `Umar suggested that his front teeth be broken. But the Prophet of Allah (peace be upon him) said: "If I were to mutilate him, Allah would mutilate me." After keeping them imprisoned for some time, ultimately the Prophet of Allah (peace be upon him) freed all the prisoners on collection of ransom from them.<sup>1</sup>

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<sup>1</sup> In the books of the Tradition and the Qur'anic exegeses the incident about the ransoming of the prisoners of the Battle of Badr has been mentioned. It is narrated that when these people were brought in as prisoners of war, the Prophet of Allah (peace be upon him) consulted the Companions about this matter. At that time, the wounds of persecution and oppression were still fresh in the hearts of the migrant Muslims. Two years ago, these were the very people who had driven them out of Makkah and then had attacked them with the intention of not allowing them to live in peace in Madinah. For this reason, most of the Companions were infuriated. Moreover, at that time the numerical strength of Muslims was very small and the Unbelievers had come to the battlefield in greater numbers, and hence any more addition to their numbers was fatal for Muslims. Therefore, naturally, Muslims wanted to break the strength of the enemy as far as possible, and did not want these 70 persons, who had already been removed from the enemy forces, to join them again and strengthen the military might of the enemy. The third point was that at that time

Muslims themselves were passing through a phase of starvation and did not have enough provisions to feed themselves. Hence, to keep the prisoners of war imprisoned and feed them till the cessation of hostilities was beyond their means. Keeping in view all these matters, Hazrat `Umar suggested that they all be executed; Hazrat Abdullah bin Rawaha suggested that they all be thrown into a thick bush after kindling it. But Hazrat Abu Bakr, who was a very kind-hearted person, was against these suggestions and said that they all be pardoned. After hearing all these opinions, the Prophet of Allah (peace be upon him) said: "Allah makes hearts of some of the persons so soft that they become as soft as milk, and makes hearts of some others so hard that they become as hard as rock. Abu Bakr is like Abraham and Isa (Jesus), and `Umar is like Nuh." Then he decided: "Do not execute them nor pardon them; free them on ransom." Hence, they were all freed after receiving ransom from them. As per the very popular narration, Allah reprimanded Muslims on this decision and the following Verses were revealed:

مَا كَانَ لِنَبِيٍّ أَنْ يَكُونَ لَهُ أَسْرَىٰ حَتَّىٰ يُفْجِنَ فِي الْأَرْضِ تُرِيدُونَ عَرَصَ الدُّنْيَا وَاللَّهُ يُرِيدُ الْآخِرَةَ ۗ وَاللَّهُ عَزِيزٌ حَكِيمٌ ﴿٦٧﴾ لَوْلَا كُفْتُ مِنَ اللَّهِ سَبْقَ لِمَسْكُمْ فِيمَا أَخَذْتُمْ عَذَابٌ عَظِيمٌ ﴿٦٨﴾

(النحل: 67-68)

*"It is not fitting for a Prophet that he should have prisoners of war until he has thoroughly subdued the land. You look for the temporal goods of this world, but Allah looks to the Hereafter; and Allah is Exalted in might, Wise. Had it not been for a previous ordainment from Allah, a severe punishment would have reached you for the (ransom) that you took."*

(The Quran, 8:67-68)

Contrary to this, a small group of scholars is of the opinion that this reprimand was not for taking the ransom, rather it was because the Muslims, without seeking Heavenly permission, began looting the booty. Hence, Imam Tirmizi in his compilation of Traditions under Chapter of Exegesis, Imam Abu Yusuf in his *Kitab al-Khiraj*, and Imam Jareer Tabari in his exegesis, have quoted the following narration that:

*"During the Battle of Badr, the Muslims, before it being declared lawful, began looting the booty, on which incident this Verse was revealed: لَوْلَا كُفْتُ مِنَ اللَّهِ سَبْقَ لِمَسْكُمْ فِيمَا أَخَذْتُمْ عَذَابٌ عَظِيمٌ (Had it not been for a previous ordainment from Allah...)"*

Anyhow, whatever may be the circumstances, it is unanimously agreed that this Verse was revealed at the time of Battle of Badr and it was with regard to that battle alone; it was not intended to form a permanent law based on it. The actual law pertaining to the prisoners of war is based on Verse 4 of Chapter 47 of the Quran, which has been quoted in the main text of this book, because its wordings are general, and do not relate to any particular incident. The Prophet of Allah has always acted according to this Verse; otherwise if the ordainment of the Verse relating to the Battle of Badr were to be general, then no prisoner of war would ever have been released.

Hence, the Islamic law regarding the prisoners of war is that after the end of war, either they should be freed without collecting any ransom, or freed after collecting ransom, or they be kept imprisoned and treated well. The Holy Quran says:

فَإِذَا لَقِيتُمُ الَّذِينَ كَفَرُوا فَضَرْبَ الرِّقَابِ حَتَّىٰ إِذَا أَثْمَثْتُمْهُمْ فَأَشْدُوا  
الْوَتَّاقَ فَإِمَّا مَنًّا بَعْدُ وَإِمَّا فِدَاءً

(4:م)

*"When you meet the Unbelievers (in fight), smite at their necks; at length when you have thoroughly subdued them, bind (the captives) firmly; whereafter (is the time for) either generosity or ransom."*<sup>1</sup>

(The Quran, 47:4)

According to this Verse, the Prophet of Allah (peace be upon him) more often used to release the prisoners of war without collecting any ransom. In Jibal Tan`yeem, a contingent of 80 persons attacked the Islamic forces and all of them got arrested. When they were brought before the Prophet of Allah (peace be upon him), he released them without collecting any ransom. In the Battle of Hunain, 6000 prisoners of the tribe of Huwazan were released by way of "generosity." The Chief of Yemama, Samama bin Uthal was arrested and brought in; he was also granted freedom without any ransom. He got so impressed by this generosity that he embraced Islam. However, the Prophet of Allah (peace be upon him) used to collect ransom too, particularly when in straitened circumstances.

## 6. The Issue of Slavery

A question arises with regard to prisoners of war concerning the rationality behind the permission granted in Islam with regard to enslaving the prisoners of war and allowing sexual intercourse with the women seized in war. If this has been allowed by Islam, then how far is it

<sup>1</sup> Some scholars have confined the meaning of "generosity" to releasing the prisoners without ransom, although it also means treating them with kindness while being kept imprisoned.

compatible with the spirit of the ordinance contained in the verse فَإِنَّمَا مِنَّا بِغْدُ وَإِنَّمَا فِدَاءٌ (“whereafter (is the time for) either generosity or ransom”)? It can be gathered from the way in which the opponents have raised this question and the way in which this questions has been answered by a few advocates of Islam, that both of them have not sufficiently pondered over the issue and its positive and negative aspects. It is a fact that Islam permits enslavement of prisoners of war, and it is also a fact that permission has been granted to keep them enslaved and to have sexual intercourse with the women prisoners of war. However, to understand the underlying reason and the origin of the issue, it is necessary to fully understand certain precedents in this regard.

Firstly, in that era it was not customary to exchange prisoners of war. When Muslims were imprisoned by other nations, they were enslaved. Hence, Muslims had no other option but to enslave the enemy prisoners of war. However, whenever there was an offer of an exchange of prisoners of war, Muslims have always gladly accepted the offer and exchanged the prisoners. Allama Ibn Hajar writes in *Fath al-Baari* that:

*“Whenever there were Pagan prisoners in the custody of Muslims, and Muslim prisoners in the custody of the Pagans, and there was an agreement to exchange the prisoners, it was arranged.”<sup>1</sup>*

Imam Abu Haneefa, Imam Abu Yusuf, Imam Muhammad, Imam Malik, Imam Shaf’ yee, Imam Ahmed are all unanimous that if the enemy agrees to exchange Muslim prisoners with its prisoners, then they should be exchanged.<sup>2</sup> Evidence is available that the Prophet of Allah (peace be upon him) himself had exchanged prisoners of war. It is reported by Muslim, Abu Dawood and Tirmizi

<sup>1</sup> *Fath al-Baari*, Vol. 6, p.101.

<sup>2</sup> *Fath al-Qadeer*, Vol. 4, p. 306.

that the Prophet of Allah (peace be upon him) had once exchanged a Pagan for two Muslims, and on another occasion he got released two Muslims from the Makkans by handing over to them a girl who was under arrest.

Secondly, sometimes in the battles majority of men folks of a city was used to be got killed, and quite often it so happened that every man of a habitat capable of fighting used to get killed. In such a situation, there was no other way of taking care of the destitute women and children except the conqueror nation itself taking this responsibility on its shoulders. When this responsibility was to be discharged by the conquerors, then for the protection of the women and keeping intact their dignity in the society what better way was there than to allow Muslim men to establish marital relationships with them. By this method they became members of the Muslim society and the doors to all those evil and mischief were closed forever which would have opened if thousands of such women had been left in the society without husbands of their own.<sup>1</sup>

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<sup>1</sup> The salient features of the Islamic Law concerning the women prisoners of war are as follows:

1. The women prisoners of war would be in the custody of the Islamic government till such time it does not decide whether to free them on payment of ransom, or exchange them with other prisoners of war, or distribute them as slave-girls amongst the members of the armed forces. During this period, no soldier is allowed to have sexual relationship with any woman prisoner of war, and if anyone does so it is considered as committing fornication and would be punished according to the punishment prescribed under the Islamic criminal law for fornication.
2. When the Islamic government decides that the women prisoners of war have to be enslaved, then it would officially distribute them and every individual woman would be given in the ownership of a particular man.
3. The owner of such woman cannot have sexual relationship with her till she does not pass through her menstrual cycle once, or if she is pregnant, till she does not deliver the child; it is forbidden to have sexual intercourse before this.

Thirdly, Islam has only permitted to enslave the prisoners of war, and has not ordained it. It is left to the choice of the Muslims to take advantage or not to take advantage of this permission; rather, it is understood from the conduct of the Rightly-guided Caliphs that it is better not to take advantage of it. Egypt, Syria, Iraq, Africa, Armenia and various other countries were conquered by force and millions of people were captured, but except for a minority, others were not enslaved. In many of the places, it so happened that the commander of the army enslaved the people and when it came to the notice of the Caliph, they were ordered to be freed. Bilazuri writes that some of the villages of Egypt were conquered after encountering severe resistance and the Muslims enslaved their inhabitants and sent them to Caliph `Umar in Madinah. But Hazrat `Umar freed them and sent them back to their native places and ordered that they all be made *zimmies* (protectees) as the other Copts.<sup>1</sup> From this, it is evident that enslaving the

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4. The owner alone has the right to have sexual relationship with the woman who has been given in his ownership; if any other person were to have sexual relationship with her, he would be guilty of fornication and everyone knows how harsh the punishment in Islam is for committing fornication.

5. If any soldier, except according to the above procedure, were to commit lasciviousness with the women of an enemy nation in the war zone, would be considered guilty and punished accordingly.

[It has also been mandated that the child of a slave woman should be considered as the legitimate child of the father and should follow his lineage, while the mother should never again be sold and should become free at his death. (Translator)]

There is no comparison between this chaste and regulatory method and the method of the so-called modern-day civilized armed forces who, invading the conquered territories, indulge in such acts of rape, lasciviousness, lewdness and bestiality that a decent person cannot even mention it.

I have discussed this issue in detail in my other writings, which can remove even the remotest possible doubt in this regard. Here there is no room for details; for details refer *Taftheemat*, Vol. 2; *Rasaael wa Masaaleel*; and *Taftheem al-Quran*.

<sup>1</sup> *Futuh al-Buldan*, p. 223.



prisoners of war was neither essential nor better; rather since it was not customary to exchange prisoners of war, this was adopted as an inevitable evil.

Fourthly, Islam has given permission very reluctantly to enslave only those who are captured during the course of a war. As far as capturing and selling free men as slaves, which was in vogue since ancient times, Islam has very strictly forbidden it. The Prophet of Allah (peace be upon him) warns that:

*"There are three persons against whom I myself would be a plaintiff on the Day of Judgment: One, who made a promise in my name, and then betrayed; the second, who sold a free man and consumed his sale-price; the third, who did not pay the labourer after fully extracting work from him."* (Bukhari)

From the above, it is quite evident that because of some important expediencies and constraints, Islam gave permission for the retention of the system of enslavement of prisoners of war. However, if Islam had given unrestricted and general permission for the retention of this system, it would have been possible that a system of that kind of slavery would have come into existence in the Muslim society too which was prevalent in Rome, Iran and other countries and would have, perhaps, resulted in creating a community of slaves as lowly and debased as the Shudras of India. But it is the way of Islam that in whichever issue it finds difficulties in reforming it directly, it certainly retains it but does not allow it to remain in its original form and indirectly adopts such methods of reformation that would eventually result in removal of all its defects and detriments; it adopted similar method in respect of slavery too. Because of a few pressing reasons, it was difficult to eradicate slavery completely, and therefore it retained its form but through indirect methods changed its substance in such a way that instead of it being a great social detriment, it became a great boon for humanity. For

this purpose, Islam adopted many different methods, among which three are the most important:

1. Setting free a slave and helping a slave in getting his freedom has been declared a great virtuous deed worthy of great rewards, and it has been extensively and variously exhorted upon. The Holy Quran declares:

وَمَا أَدْرَاكَ مَا الْعُقْبَةُ ۖ فَكَرَقَبَةٌ ۖ أَوْ إِطْعَمٌ فِي يَوْمٍ ذِي مَسْغَبَةٍ ۖ يَتِيمًا

(البلد: 11-16)

ذَا مَقْرَبَةٍ ۖ أَوْ مَسْكِينًا ذَا مَتْرَبَةٍ ۝

*"But he has not made haste on the path that is steep. And what will explain to you the path that is steep? (It is) freeing the bondman (slave); or the giving of food in a day of privation to the orphan with claims of relationship, or to the indigent (down) in the dust."* (The Quran, 90:11-16)

The Prophet of Allah (peace be upon him) used to describe variously the loftiness of setting free the slaves which created great enthusiasm for this virtuous deed in Muslims. Once an Arab came and asked: "O Prophet of Allah, tell me about a deed by which I can enter Paradise." He said: "Set free slaves and free the necks from slavery." In another Tradition, he said: "Whoever sets free a slave, his each and every part of the body would get protected from the Hell in lieu of each and every part of the slave's body." In yet another Tradition, it is narrated that: "Whoever sets free a Muslim woman, it would be a ransom to escape from the Hell." Once, Imām Zain al-'Abdeen heard the Tradition: "Whoever sets free a slave, his each and every part of the body would be pardoned in lieu of each and every part of the slave's body," he called his slave Matraf, whom he had bought for 10,000 Dirhams, and set him free.

To create more and more enthusiasm and fervour, the Prophet of Allah (peace be upon him) had set a rule that setting free the most valuable and most favourite slave would entail in getting a proportionate reward. Hazrat Abu Zar asked the Prophet of Allah (peace be upon him):

“What kind of slave is better to set free?” He said: “That slave who is very expensive and who is liked most by his master.” Likewise, it has been declared a great virtuous deed if a slave girl is freed and married off after giving her a good education and training. The Prophet of Allah (peace be upon him) said: “Whoever freed a slave girl after giving her a good education and training, and then married her himself, would get double the reward.”

Among the expiations fixed for the atonement of different sins, the expiation of setting free a slave has been declared as the best expiation. Setting free slaves on the occasion of solar eclipse has been described as a source of driving away scourges. At any rate, setting free the slaves has been encouraged in every manner possible.

2. The second method was the strict instructions issued to treat the slaves with utmost kindness and consideration. The Prophet of Allah (peace be upon him), in his advice to the Muslim Community (*Ummat*), given in the last moments before his death, strictly instructed firstly to take care of the *Salat* (Prayer) and secondly to treat the slaves with kindness and consideration – <sup>1</sup> *الصلوة وما ملكت ايما نكم*. Because of the wrong perception of slavery of the pre-Islamic era, the Companions of the Prophet sometimes used to maltreat the slaves in their custody, and the Prophet has reprimanded his closest and very eminent Companions for this lapse.

Once Hazrat Ma'roor bin Suwaid noticed that a slave of Hazrat Abu Zar Ghifari had covered his body with a similar piece of cloth with which Hazrat Abu Zar had

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<sup>1</sup> It is mentioned in *Nihaya* that here *ما ملكت ايما نكم* means slaves only, and the objective of the Prophet from this was to give instructions to treat the slaves with kindness. Certain scholars have taken the meaning of *ما ملكت ايما نكم* as *Zakat* (Poor Due). But the more preferable opinion is that while passing out of this world, the Prophet of Allah strongly advised about *Salat* (Prayer) amongst deeds of worship, and about treating the slaves with kindness amongst the deeds to be accomplished in the social life.

covered himself; he enquired the reason behind it. Hazrat Abu Zar said: "Once I had bad-mouthed a slave and he went and complained to the Prophet of Allah (peace be upon him)." On hearing the complaint, the Prophet of Allah (peace be upon him) got angry and called me and said:

*"O Abu Zar, the traces of pre-Islamic era has not yet completely gone from you. These, your brethren, are your servants whom Allah has made your dependents. Hence, whosoever's brother is dependent on him, he should feed him the same food as he feeds himself, and clothe him with similar clothes as he clothes himself; do not burden them beyond their strength and capacity, and if you entrust them with a difficult task help them to accomplish it."*

Hazrat Abu Mas'ood Ansaari narrates that: "Once I was beating my slave. Suddenly I heard a voice from the rear saying: 'Beware Abu Mas'ood, Allah has more power over you than what you have over this slave.' When I turned, I saw it was the Prophet of Allah (peace be upon him). I immediately said: 'He is free for the sake of Allah.' The Prophet said: 'If you had not set him free, you would have been punished with fire.'"

Once a person came and asked the Prophet of Allah (peace be upon him): "How many times we should pardon our slave?" He said: "If he commits even 70 mistakes daily, keep on pardoning him."

Hazrat Swaid bin Maqrin narrates that: "We had one slave for us seven brothers. Once, when my youngest brother slapped him, the Prophet of Allah (peace be upon him) ordered us to set him free." Mu'awiya, son of the aforesaid Swaid bin Maqrin says that: "I once slapped my slave; when my father came to know about it, he called both of us and asked the slave to retaliate (and slap me)." <sup>1</sup>

It was customary with Arabs that whenever they used to address a slave they addressed him as عبدی ('Abadi –my

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<sup>1</sup> Abu Dawood.

slave) and the slave-girl as امّتی (*Amati* – my slave-girl) and asked the slaves to address them as ربّ (*Rabb* – Lord). The Prophet of Allah (peace be upon him) forbid it and ordered them to be addressed as فتّای (*Fataya* – my boy) and فتّاتی (*Fatati* – my girl), and get themselves addressed as سیدّی or مولای (*Sayyedi* or *Moulayee* – my master). The Arabs considered it demeaning even to allow a slave to sit or stand close to them. But the Prophet of Allah (peace be upon him) ordered: “When one of your slaves brings you food and if you cannot seat him with you (and let him eat with you), at least feed him a morsel or two from your food.”

The purpose of all these instructions was to make sure that the slaves were treated with kindness and they could live as one of the members of the family.

3. Islamic Law has given such wider rights to the slaves that these rights have almost reached the level of the rights of freemen. The criminal laws offer them the same protection as they offer freemen; whoever steals their wealth, or murders them, or dishonours their women, or bodily injures or hurts them – whether he is a freeman or a slave – will be given the same punishments which would be given if similar crimes are committed against freemen. Similarly, the civil laws recognize their ownership on their properties and give them wider freedom and authority to use their properties and wealth. As per law, even their masters have no right to dispose off or administer the personal wealth and properties of their slaves without their permission or bodily hurt them, except by way of punishment (where also it has been very strongly instructed to be lenient and merciful), or have any kind of illicit sexual relationships with their wives or daughters.<sup>1</sup>

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<sup>1</sup> As against this, in the Christian Byzantine Empire of Rome, let alone the slaves, even the condition of the so-called freemen was no better. Mr. Syed

More than the law, Islamic society has given the slaves the status of equality in the society. In the social life, the status of the slaves was in no way less than that of the freemen. Opportunities were available to them to achieve excellence in education, politics, religion, and in every other wing of the social life, and being a slave was never an impediment for them in any manner whatsoever. The Prophet of Allah (peace be upon him) gave in marriage his own cousin sister, Hazrat Zainab (who later became his own wife) to his freedman Hazrat Zaid bin Harisa. Hazrat Imam Hussain, the grandson of the Prophet, was married to a princess of Iran who had been brought as a slave girl; Imam Zain al-Abdeen was born to this princess/slave girl whose offspring happen to be in the top echelons of Muslim nobility. Saalim bin Abdullah and Qasim bin Muhammed bin Abu Bakr, who were amongst the top-ranking jurists of Taba'yeen were born of two slave girls. Imam Hasan Basri, who was the leader of the Islamic scholars of Taba'yeen and Sufis was a son of a slave. It is said that Imam Abu Haneefa, who has millions and millions of followers and who is known as the Great Imam, was a descendant of the slaves of Bani Teem.

The famous scholar of Prophetic Traditions and one of the high-ranking Tabayeen, Muhammad bin Seereen, was the son of a slave. His father, Seereen, and his mother, Safiya, both were slaves, but they were such high-ranking slaves that three Mothers of the Believers (i.e. wives of the Prophet) had dressed and dolled-up Safiya as a bride, and an eminent Companion of the Prophet like Ka'b bin Malik had performed the *Nikah* (marriage ritual).

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Ameer Ali writes in his famous book *The Spirit of Islam* (p. 270, published in 1922 by Christophers, London) that: "If the lord's son or daughter married, they must cheerfully pay their contributions. But when the freeman's daughter married, she must first submit to an infamous outrage – and not even the bishop, the servant of Christ, when he happened to be the lord of the manor, would waive the atrocious privilege of barbarism." (That is, the privilege of having sexual intercourse with the bride on the very first night of nuptials.)

Imam Malik's eminent teacher, Naafe` was a slave of Hazrat Abdullah bin `Umar, and was one of the most important links of the School of Thought established by Imam Malik. Abu Abdur Rahman Abdullah bin Mubarak, who is one amongst the eminent legists, was the son of a slave named Mubarak. Ikrama, who was a leading exegete of the Quran, was himself a slave. Yesaar, the grandfather of Muhammad bin Ishaq, the famous biographer of the Prophet, was captive of the Battle of `Ayn al-Tamar.

The leading scholar of Prophetic Traditions of Makkah, `Ata bin Rabah; Imam Tawoos bin Kaysan of Yemen; Imam Yezeed bin Habeeb of Egypt; Imam Makhool of Syria; Imam Maimoon bin Mehraan of Al-Jazeerah; Imam Dhahhaak of Khurasaan; Imam Ibraheem al-Nakh`yee of Kufa; all belonged to the group of slaves.

Hazrat Salman Farasi was a slave whom Hazrat Ali used to refer him as one of the members of his household. Hazrat Bilal was an African slave whom Hazrat `Umar used to refer as: "Bilal is the slave of our master, but he is our master." Hazrat Suhaib Roomi was a slave whom Hazrat `Umar had asked to lead Muslims in prayer during his absence. Hazrat Saalim was the slave of Hazrat Huzaifa, of whom Hazrat `Umar said at the time of his death, if Saalim had been alive he would have nominated him for the caliphate. Usama bin Zaid was the son of a slave whom the Prophet of Allah (peace be upon him) in his last days, had appointed commander of that army in which eminent Companions like Hazrat Abu Bakr and others were drafted as ordinary soldiers, and about whom Hazrat `Umar had reprimanded his son, Hazrat `Abdullah, by saying: "Usama's father and Usama himself were dearer to the Prophet of Allah (peace be upon him) than your father and yourself."

These are the incidents from the earliest era of Islam. Later, when the Islamic spirit had got weakened, slaves like Qutbuddin Aybak, Shamsuddin Altamash and Ghayasuddin

Balban, have ruled the Indian subcontinent as great and eminent kings. Mahmood Ghaznavi, who was the greatest conqueror of the world of his time, was a descendant of a Turkish slave. The Mamlooks ruled Egypt for many centuries; their name itself indicates that they were actually slaves who became kings of Egypt.

Who can call these slaves, slaves? Were there more opportunities for the freemen to progress than that was available to these slaves? Did their servitude stop them to reach the highest echelons of social ladder? If this is called servitude then what is wrong in renaming freedom as servitude?

These were the methods by which Islam decreased the viciousness and effects of slavery to such an extent that it almost blended with freedom; rather there remained no difference between the two. The word "slave" indeed remained over, but the reality of the servitude changed radically.

## **7. The Issue of War Booty**

The issue of war booty in Islam is one of those issues on which its opponents have extensively commented upon and its supporters, most often, have defended it defectively. As a matter fact, Islam has adopted the same gradual method of reformation with regard to war booty as it had adopted with regard to the issue of slavery. In Arabia the desire for war booty was very deep-rooted; this has been described in detail in the previous pages. Acquisition of war booty was the greatest avarice which excited an Arab to face the dangers of warfare and kill and get killed. Looting and plundering was the very meaning of warfare in Arabia inasmuch as that the lexical meaning of the word حرب (*harb* – war) could not be complete in their perception without the concept of looting and plundering. When these Arabs came into the fold of Islam, they came with this ancestral desire and passion. It was highly impossible to



suddenly change this centuries-old ancestral attitude. The attitude of the newly converted Arab Muslims, who were to be reformed, was such that they were compulsively and by nature attracted to the war booty, and they were unable to control themselves once they noticed the booty in the battlefield. Before the Battle of Badr, the Prophet of Allah (peace be upon him) sent a contingent under the command of Hazrat `Abdullah bin Jahash to gather information about the enemy. On the way, they came across a few traders of the Quraish and noticing the booty, the men went out of control and after killing the traders looted their goods. Historians consider this incident as one of the causes for the Battle of Badr.<sup>1</sup> Before the Battle of Badr, from one direction the trade caravan of the Quraish was approaching and from the other direction the army of Quraish was coming from Makkah. In spite of it being more important and essential to break the power and force of the enemy, it was the desire of the majority of the Muslim army that the caravan be attacked and looted first. On this account, the Holy Quran says:

وَأَذِيعُدْكُمْ اللَّهُ إِحْدَى الطَّائِفَتَيْنِ أَنهَآ لَكُمْ وَتَوَدُّونَ أَن غَيْرَ ذَٰلِكَ الشَّيْءِ  
تَكُونُ لَكُمْ وَيُرِيدُ اللَّهُ أَن يُخَيِّقَ الْحَقَّ بِكَلِمَاتِهِ وَيَقْطَعَ دَابِرَ الْكَافِرِينَ (الأنفال: 7)

*"Behold! Allah promised you one of the two parties, that it should be yours; you wished that the one unarmed should be yours, but Allah willed to establish the Truth according to His words,*

*and to cut off the roots of the Unbelievers."* (The Quran, 8:7)

When they were victorious in the battle, it became very difficult for the pious and reverent group of Companions to control the desire of war booty, and they began to loot the booty without waiting for Allah's permission; concerning this occasion, the following Verse was revealed:<sup>2</sup>

<sup>1</sup> Tabari, Vol. 2, p. 267; Ibn Aseer, Vol. 2, p. 42-43.

<sup>2</sup> Tabari; Vol. 2, p. 267; Kitab al-Khiraj, p. 122; Tirmizi.

لَوْلَا كِتَابٌ مِّنَ اللَّهِ سَبَقَ لَنَسَكَّنَّكُمْ فِيْمَا أَخَذْتُم مِّنْ عَذَابٍ عَظِيمٍ ﴿٦٨﴾ (الأنفال: 68)

*"Had it not been for a previous ordainment from Allah, a severe punishment would have reached you for what you have taken."*  
(The Quran, 8:68)

In the Battle of Uhad, the very same passion for booty turned the victory into defeat. As soon as the army of Quraish fled the battlefield, the Companions turned their attention to the booty, and those archers whom the Prophet of Allah (peace be upon him) had positioned on top of a hill to protect the back of his army, disputed his order in a state of ecstasy and most of them left their position and joined in the looting of the booty, which resulted in the disarray of the Islamic army; the enemy army turning back counter-attacked so vehemently that even the Prophet himself got injured in the melee. The same thing happened in the Battle of Hunain; when the enemy troops were scattered in the initial attack, those soldiers of the Islamic army who were recent entrants to the fold of Islam began looting the booty, and noticing the disarray in the Islamic army, the archers of Bani Huwazan counter-attacked so fiercely that even the bravest of the Islamic army could not withstand the attack and fled the battlefield, and the Prophet of Allah and a few other of his Companions alone stood the ground.<sup>1</sup>

Allah forbid, it is not our intention to degrade the Companions of the Prophet by describing these incidents here; rather, it is intended to be shown that the passion for war booty was a natural passion which had ingrained in the human nature by centuries-old traditions so deeply that it was impossible to eradicate it suddenly from the hearts and minds of even a reverent group like the pious Companions of the Prophet in whose estimation all worldly possessions were very low, let alone the other groups of men. Under these circumstances, what better way a wise religion like Islam, which does not want to fight the natural instincts of

<sup>1</sup> Bukhari.

man but wants to reform it, could have adopted than to make lawful the war booty and then through indirect ways and means tries to decrease its limits and the level of its passion? This was the way that Islam adopted. The reason for which Islam made lawful the war booty has been described in one of the Traditions of the Prophet of Allah, which has been reported by Imam Yusuf on the authority of Hazrat Abu Huraira:

*"The Prophet of Allah (peace be upon him) said: War booty had not been made lawful before you for any black-head people; a fire used to descend from the heaven and eat away the war booty.<sup>1</sup> At the time of Battle of Badr, when people rushed to loot the war booty, this Verse was revealed: "Had it not been for a previous ordainment from Allah, a severe punishment would have reached you for what you have taken. But (now) enjoy what you took in war, as it has been made good and lawful for you."<sup>2</sup>*

From this Tradition, it is understood that the war booty was not lawful earlier. But keeping in view the unchangeable tendency of human nature in this behalf, it was made lawful. However, it does not mean that it was a complete surrender before the human nature; rather for the reformation and limitation of this tendency different methods were adopted which gradually removed the very passion for war booty from the hearts and minds of the people, and whatever little remained over, it was reformed by placing different kinds of restrictions and limiting further the sphere of the war booty itself. In this behalf, it is important to mention particularly three methods.

1. Islam downgraded the expressive worth of war booty to such an extent that the desire to acquire it did not exist anymore. First, it was declared that those who take part in war for the sole purpose of acquiring war booty

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<sup>1</sup> This refers to an incident reported, by Hazrat Abu Huraira in another Tradition; refer *Bukhari, Chapter on Jihad*.

<sup>2</sup> The Quran, 8:68-69.

would not get any reward of Jihad from Allah, and only those would get it who, keeping their intentions clear of any worldly objectives, wage war solely in the Cause of Allah. When the significance of acquiring more rewards from Allah than acquiring war booty was sufficiently ingrained in the hearts and minds of the people, it was further indicated that those who reap benefits out of war in this world would get lesser reward in the Hereafter, and those who do not reap any kind of benefits in this world, would get their full rewards in the Hereafter. The Prophet of Allah (peace be upon him) says in one of his Traditions:

*"The army which waged war in the Cause of Allah and got the war booty, got here itself two-third of the reward of the Hereafter and only one-third remained over for it; and the army which did not get the war booty would get the full reward (in the Hereafter)."* (Muslim, Nasayee)

This teaching created in Muslims the desire to acquire more rewards in the Hereafter rather than the war booty, and the same Arabs, who used to get excited noticing stocks of war booty, in a few years, became so indifferent to the worldly possessions that they began refusing to accept the war booty when offered to them. When the general call was given for the Battle of Tabuk during the lifetime of Prophet Muhammad (peace be upon him), Hazrat Waasila bin Asqa` said to the people that whoever took him along for the Jihad, he would pay him half of the war booty. One of the Companions from the Ansaars agreed and took him along. After the battle, Hazrat Waasila got a few very good young camels as his share from the war booty, and he took them to the Ansaari person and said to him: "This is the war booty a share of which I had promised to give you." But the Ansaari refused to accept and said: "My objective was not the war booty; I just wanted the reward (in the Hereafter)."<sup>1</sup>

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<sup>1</sup> Abu Dawood.

Once, a Bedouin participated in a battle with the Prophet of Allah (peace be upon him). After the battle some war booty was brought to the Prophet and the Prophet apportioned a share to the Bedouin too. When he was informed about it, he came and said: "I have not accepted your guidance for the sake of this wealth. I just want (pointing out at his throat) an arrow pierced here and I am martyred."<sup>1</sup>

2. In the war booty, a fifth was apportioned to be spent on the poor, the indigent, the invalid, and other common public needs. The Holy Quran says:

وَاَعْلَمُوا أَنَّمَا غَنِمْتُمْ مِنْ شَيْءٍ فَإِنَّ لِلَّهِ خُمُسَهُ وَلِلرَّسُولِ وَلِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ  
وَالْمَسْكِينِ وَابْنِ السَّبِيلِ (الأنفال: 41)

*"And know that out of all the booty that you may acquire (in war), a fifth share is assigned to Allah, and to the Messenger, and to near relatives, orphans, the needy and the wayfarer."* (The Quran, 8:41)

This way, a substantive portion was deducted from the war booty to be spent on good common causes thus reducing the portion available for distribution among the army.

3. Earlier, every kind of goods looted by the army from the enemy country, in whatever manner it might be, was considered war booty. But Islam declared only those goods taken by the victorious army from the battlefield to be the war booty. By this, on the one hand the looting and plundering of the peaceful civilian habitats has been excluded from the lawful limits of the war booty, and on the other those goods and properties are also get excluded from the definition of war booty which come into Muslim possession by way of peace treaties or grant of immunity and quarter, or which come into the possession of the Islamic army after the end of the armed hostilities. Further,

<sup>1</sup> Nasayee.

according to this definition, all those immovable properties also get excluded from the definition of the war booty, which come into the possession of the Islamic government from the possession of the enemy government; Islam, instead of distributing them amongst the army, has declared these kinds of properties as the property of the Islamic government. Hence, the Holy Quran declares:

وَمَا آتَاكَ اللَّهُ عَلَى رَسُولِهِ مِنْهُمْ فَمَا أَوْجَفْتُمْ عَلَيْهِ مِنْ خَيْلٍ وَلَا رِكَابٍ وَلَكِنَّ اللَّهَ يُسَلِّطُ رُسُلَهُ عَلَى مَنْ يَشَاءُ ۚ وَاللَّهُ عَلَى كُلِّ شَيْءٍ قَدِيرٌ ①  
رَسُولُهُ مِنَ أَهْلِ الْبَلَدِ قَلِيلٌ وَلِلرَّسُولِ وَلِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسْكِينِ  
وَالْبَنِ السَّبِيلِ إِنْ لَا يَكُنْ دُولَةٌ يَتَرَفَعُوا مِنَ الْأَعْيَاءِ مِنْكُمْ  
(المشر: 6-7)

*"What Allah has bestowed on His Messenger (and taken away) from them – for this you made no expedition with either cavalry or camelry; but Allah gives power to His messengers over any He pleases; and Allah has power over all things. What Allah has bestowed on His Messenger (and taken away) from the people of the townships, belongs to Allah, to His Messenger, and to kindred and orphans, the needy and the wayfarer; in order that it may not (merely) make a circuit between the wealthy among you."* (The Quran, 59:6-7)

These Verses have clarified that only those conquered goods come under the war booty which the army has acquired by running its cavalry and camelry in the battlefield (i.e. during war operations). As regards those goods, immoveable properties and lands which come into possession not due to the "direct action of the cavalry or camelry" (i.e. during war operations) they would be the property of the Islamic government to be spent in the cause of Allah and His Prophet. (In Islamic terminology, these types of conquered properties are known as "*Fay*.")

In the beginning this ordinance was understood to be specific to the personality of the Prophet of Allah alone. But when the Companions of the Prophet pondered, they

noticed that in the beneficiaries of *Fay* six categories have been enumerated: Allah, His Prophet, the kindred, the orphans, the needy and the wayfarer. Out of these six, only the Prophet had passed away and among the remaining five, Allah is an Eternal and Living entity, and the other four categories would be in existence till the Day of Judgement, and just passing away of the Prophet cannot take away the rights of the other five to receive their shares. Further, the right of the Prophet in the *Fay* was not for his self alone, but it was also for the mission and the work he was doing all his life, and that mission and work goes on as usual even after his passing away; hence the right of the Prophet did not become non-existent. Moreover, another reason described for apportioning these shares in the *Fay* to the six sharers was that the wealth and properties should not keep on circulating amongst the rich alone; rather every segment of the society should be benefitted from it – لَا يَكُونُ دَوْلَةً بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ ("in order that it may not (merely) make a circuit between the wealthy among you"). As this rationale was true in the life of the Prophet, it remains true even today and will remain so till the existence of the world. Hence, on this basis it has been ordained that the wealth and properties of *Fay* should be reserved for Allah, the mission and work of the His Prophet, and to serve all segments of the society, including the kindred of the Prophet who should be given preference over other needy persons.<sup>1</sup>

According to this ordinance, Hazrat `Umar refused to divide the conquered countries/lands amongst the armed forces, and the armed forces were to be contented with that wealth which had been obtained during the war operations

<sup>1</sup> This was the ruling and decree of Hazrat `Umar. When the majority of the armed forces demanded that Iraq should be divided amongst the soldiers, he refused and quoted this very Verse as proof for rejection, and had said: "All these are for the people of villages and towns."

from the enemy troops and camps. In this respect, the letter written by Hazrat `Umar to Hazrat Sa'd bin Abi Waqqas clarifies fully this Islamic law. Bilazari has excerpted this letter thus:

*"Received your letter. You state that people are telling you that whatever land and goods Allah has bestowed on them by way of war booty should be divided. Hence, soon after receipt of my letter, divide the goods, implements, equipage, and animals collected during "direct action of the cavalry or camelry" (i.e. during war operations) amongst the armed forces after deducting the Khums (the fifth). As far as the lands and canals, let them remain with the farmers so that they could be used for payment of salaries of Muslims; otherwise, if you distribute them amongst the present generation, nothing will remain for the future generations."*<sup>1</sup>

When Hazrat Abu `Ubaida conquered Syria, then also the armed forces considered the entire country as war booty and had demanded it to be distributed amongst the soldiers. He informed Hazrat `Umar about it and sought his orders in this regard. In reply, Hazrat `Umar wrote a lengthy letter in which, quoting the aforesaid Verse as the proof, he says:

*"Hence, let the properties that Allah has bestowed upon you by way of Fay be in the possession of the people of the country and levy bearable tax on them."*<sup>2</sup>

This way, Islam, on the one hand, reduced the passion for war booty which was the underlying cause for looting and plundering, and on the other, it promulgated such laws which reduced the sphere of war booty to those goods which are obtained during war operations from the defeated enemy armed forces. Further, out of this war booty it deducted the fifth to be spent for the good and virtuous causes.<sup>3</sup> According to the Islamic terminology war booty

<sup>1</sup> *Futuh al-Buldan*, p. 274. Imam Yusuf has also quoted this in his book *Kitaab al-Khiraj* (p. 13-14) with a little variation in the wordings.

<sup>2</sup> *Kitab al-Khiraj*, p. 82.

<sup>3</sup> On this occasion, it should be clearly understood that Islam does not permit taking away by individual soldiers whatever goods that come into their



means the very same thing which is described in the Western law as "spoils of war," and which has been declared by all the legislatures of the world to be the natural right of the victorious. The only difference is that the Western law declares the entire war booty as the property of the government, whereas the Islamic law takes the fifth share of the booty and distributes the remaining four shares amongst the soldiers who had obtained it after shedding their blood.<sup>1</sup>

### 8. Peace-Making and Grant of Quarter

One of the features of Islam is that Muslims should always be prepared for making peace. The objective of Islamic war is reformation, and establishment of peace and tranquility. If there is a way to achieve this objective by peaceful means, then that way should be explored first before taking up arms. This is the reason that Islam has fixed elimination of all causes for strife and there being no necessity to wage war any more as the final limit for waging war – *حَتَّى تَضَعَ الْحَرْبُ أَوْزَارَهَا* ("until the war lays down its burdens") and *حَتَّى لَا تَكُونَ فِتْنَةً وَيَكُونَ الدِّينُ لِلَّهِ* ("until there is no more persecution and the religion becomes Allah's").

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possession; this is not considered war booty, but transgression, which Islam has strictly forbidden. The regulation that Islam has enforced with regard to war booty is that whatever comes into the possession of the soldiers during war operations, should be brought and piled up in front of the commander of the armed forces; even a needle or a piece of thread or rope should not be kept hidden. Then the commander of the armed forces would deduct the fifth portion of the war booty and distribute the remaining four portions equally among the soldiers. Only eatables are exempted from this; soldiers can use them as and when needed.

<sup>1</sup> Since according to the Western law the entire portion of the war booty belongs to the government, it generates the habit of theft in the soldiers. They try to hide the war booty, which cultivates in them traits of dishonesty and immorality. On the contrary, Islamic law does not deprive its soldiers of their legitimate share, and trains them in the traits of honesty and morality in such a manner that first it asks them to deposit the entire war booty and then after deducting the one-fifth for the poor, distributes the remaining four-fifth amongst them.

Hence the Holy Quran ordains us that if the enemy requests for peace, we should accept it wholeheartedly:

وَإِنْ جَنَحُوا لِلسَّلَامِ فَاجْتَنِحْ لَهَا وَتَوَكَّلْ عَلَى اللَّهِ إِنَّهُ هُوَ السَّمِيعُ الْعَلِيمُ ۝ وَإِنْ يُرِيدُوا أَنْ يَخْدَعُوكَ فَإِنْ حَسِبَكَ اللَّهُ هُوَ الَّذِي إِلَيْكَ يَنْصُرُهُو بِالْمُؤْمِنِينَ ۝  
(الأنفال: 61-62)

*"But if the enemy inclines towards peace, you also incline towards peace, and trust in Allah; for He is the One who hears and knows (all things). Should they intend to deceive you, verily Allah suffices you; He it is that has strengthened you with His aid and with (the company of) the Believers.*

*(The Quran, 8:61-62)*

It has also been ordered that if the enemy surrenders and seeks quarter in clear words or by his attitude, it is not permitted to wage war against him:

فَإِنْ اعْتَرَفُواكُمْ فَلَمْ يُقَاتِلُوكُمْ وَالْقُوا إِلَيْكُمْ السَّلَامَ فَمَا جَعَلَ اللَّهُ لَكُمْ عَلَيْهِمْ سَبِيلًا ۝  
(النساء: 90)

*"If they withdraw from you and fight you not, and (instead) send you (guarantees of) peace, then Allah has opened no way for you (to war against them)."* *(The Quran, 4:90)*

Similarly, if individuals of the enemy nation happen to come across and if they seek quarter, it is unlawful to kill them; rather they should be allowed to live in peace, or if they want to return back to their country of origin, they should be allowed to do so and arrangements should be made to escort them back with full safety and security:

وَإِنْ أَحَدٌ مِنَ الْمُشْرِكِينَ اسْتَجَارَكَ فَأَجِرْهُ حَتَّى يَسْمَعَ كَلِمَ اللَّهِ ثُمَّ أَبْلِغْهُ مَأْمَنَهُ ذَلِكَ بِأَنَّهُمْ قَوْمٌ لَا يَعْلَمُونَ ۝  
(التوبة: 6)

*"If one amongst the Pagans ask you for asylum, grant it to him, so that he may hear the Word of Allah; and then escort him to where he can be secure; that is because they are men without knowledge."* *(The Quran, 9:6)*

As stated by Ibn Jareer and Ibn Katheer, in the beginning the objective of this Verse was propagation of

Islam. The meaning of *فَأَجِزُهُمْ حَتَّى يَسْمَعَ كَلَامَ اللَّهِ* is: take them into your protection and let them hear the Word of Allah, counsel them, and this way if they accept Islam it is well and good. And if they do not accept Islam, then do not kill them; rather escort them with full security and safety to their native places. Since the wordings of this Verse are general, the leading jurists have derived the law from it that those from the enemy countries who want to visit for trade or education and request the Islamic government for protection should be given permission to visit and move about in the Islamic territories freely.<sup>1</sup> The period of such stay would be, according to the jurists of Hanafi School of Jurisprudence, is one year, after the expiry of which the alien visitor would be given notice that either he should return or become a subject of the Islamic state by changing his nationality.<sup>2</sup> However, as regards the rights, there is not much difference between the *Zimmi* (Protectee) and the one who has been given quarter. The one who has obtained quarter has been given wider concessions in the Islamic law; *Jiziya* will not be collected from him; his quarter will not be cancelled even if he commits major crimes; if he were to murder a Muslim, or commit highway robbery or fornicate with a Muslim woman, he would be punished as other common criminals are punished under the Islamic law. Even if he sends confidential information to the enemies of the Islamic state while living in the Islamic territories, his quarter will not be cancelled; he will be punished only for the crime.<sup>3</sup> As against these concessions,

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<sup>1</sup> For this, the foremost condition is that they should enter the Islamic territories by obtaining prior quarter or asylum; otherwise, they would be considered spies, and the punishment for spying is death in Islamic law too as is in all other laws. <sup>1</sup>

<sup>2</sup> *Kitab al-Khiraaj*, p. 117; *Hidaya*. Some jurists have opined that whether notice is given or not, at the expiry of the period of one year, his nationality is automatically changed; this is the meaning that we get from the wordings of *Mabsoot*.

<sup>3</sup> *Rad al-Muhtar*, Vol.2, p. 273.

the only concession that is not given to him is that if he were to be murdered by a Muslim or a Zimmi, his murderer would not be killed in retaliation, and only blood money would be obtained from the murderer; the reason being that he is not a subject of the Islamic state, and no government gives an alien rights equivalent to its own subjects, especially when he belongs to a nation with which the government has no treaty or formal political contacts and relations.

### **9. Treatment of Conquered People**

Discussion about issues of war comes to an end. Now we should have a discussion about some other related issues of war. Treating the enemy with kindness when he is powerful and strong cannot be considered a very lofty act, because usually the powerful are treated with respect and kindness. But treating one's enemy with kindness and mercy when its power has been weakened and it has surrendered before its conqueror in utter helplessness, is the pure and virtuous act of kindness and mercy, which reveals the real good intentions of the conqueror. If the conqueror has conquered the people to possess their wealth, then exploitation of the masses would be dominant in his political set up; if it has been done on account of religious animosity, then religious bias and violence would be more prominent in the government set-up; if its motive has been avarice for world conquest and dominance, then the whole structure of the government would be established on oppression, tyranny, arrogance and subjugation. As against this, if the objective of the conqueror, in reality, is nothing but reformation, then he would neither loot and plunder the wealth of the conquered people, nor indulge in religious violence, nor persecute and tyrannize them, and nor would he debase and subjugate them. His government would be based on justice, fair play, equality, tolerance and generosity. The fundamental principle of his politics would

be to prevent the conquered people from indulging in mischief and rebellion, and provide them with the opportunities, under its protection, to progress ethically, spiritually and materially in a peaceful environment.

Now, according to this standard, let us see how Islam treats the people it conquers; what status its law gives to the conquered people; and whether its government treats the conquered people as a reformative government or a mischief-mongering government.

**Two Kinds of Conquered People:** Islam has divided the conquered people into two categories: one, who have surrendered after entering into a peace treaty or covenant; the other, who have been subjugated by the military force. There is a little difference between the two with regard to the laws governing them. Hence, we will describe respective laws pertaining to each of them separately.

**Covenantees:** The Islamic law is that those who agree for subjugation before or during the war will be treated and dealt with according to the agreed and settled conditions of submission entered into with the Islamic government. To agree for certain conditions in order to make the enemy surrender and when once surrendered to treat it contrary to the agreed conditions is the common political practice of today's so-called civilized nations. But Islam not only forbids it but declares it to be a great sin. According to Islam, it is necessary that when certain conditions have been agreed upon with a people, whether they are to their liking or disliking, they should not be transgressed even to the extent of a hairbreadth, irrespective of the difference that might have occurred in the power and strength of the parties to the agreement. The Prophet of Allah (peace be upon him) says:

*"If you wage war against any people and get an upper hand over them, and those people agree to pay you tribute to save their lives and the lives of their offspring (in another Tradition, it is mentioned: a peace treaty is agreed upon),*

*then do not collect even a penny more than what has been agreed upon, because this will not be proper for you."*

(Abu Dawood)

In another Tradition, the Prophet of Allah (peace be upon him) says:

*"Beware, I would myself be a plaintiff on the Day of Judgment against the person who tyrannizes a covenantee, or who burdens him beyond his strength, or obtains from him anything against his consent."*

(Abu Dawood)

The wordings of the aforesaid two Traditions are general in nature, and hence a general law is derived from them that it is not lawful to make any kind of addition or deletion in the conditions agreed upon in the peace treaty entered into with the covenantees. Neither excess tax can be levied on them, nor their lands can be occupied, nor their buildings and dwellings can be confiscated, nor more stricter criminal laws can be promulgated exclusively for them, nor any interference can be made in their religious affairs, nor their honour can be attacked and breached, and nor any other act can be committed against them which comes under the definition of oppression, unbearable burden and non-consentaneous acquisition. Because of these ordinances, the Islamic jurists have not formulated any laws for those people who are subjugated by means of peace treaties and have just described a general rule saying that they will be treated according to the terms and conditions of respective peace treaties. Imam Abu Yusuf writes:

*"Take from them only that much on which the peace treaty has been entered into; fulfil the terms and conditions of the peace treaty and do not make any additions to it."*<sup>1</sup>

Evidently, the rules and principles governing a peace treaty cannot be fixed; the terms and conditions are to be negotiated and agreed upon according to the circumstances and the situation. However, from the peace treaties entered

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<sup>1</sup> *Kitaab al-Khiraj*, p. 35.

into by the Prophet of Allah (peace be upon him) and the rightly-guided Caliphs with different nations and people, we can at least gather general principles based on which Islam enters and can enter into a peace treaty with its enemies. To make these principles more clear, we quote here a few peace treaties.

On the request of the People of Najran that a peace treaty be executed in their favour, the Prophet of Allah (peace be upon him) wrote a peace treaty in their favour, and after stipulating the amount of tribute to be paid by them, he wrote:

*"The lives of the people of Najran and their neighbours,<sup>1</sup> their religion, their lands, their wealth and property, those of them who are present and those who are not present, their camels, their envoys and their religious standards<sup>2</sup> shall be under the protection of Allah and the guardianship of His Prophet. Their present state shall neither be altered, nor shall any of their rights and religious standards be changed. No Usqf (Bishop) from his Episcopal office, no monk from his monasticism and no servant of a cathedral from his service shall be removed, irrespective of what he controls or possesses is small or large.<sup>3</sup> They shall not be held responsible for any past murders or pacts entered into in the past pre-Islamic era. They shall not be compelled to do military service, and no army shall trample their lands.<sup>4</sup> If anyone were to claim his rights against them, justice shall be dispensed to both the parties; the people of Najran shall not be allowed to oppress nor get oppressed. However, I*

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<sup>1</sup> Dr. Springer has taken the meaning of the Arabic word "haashiyah" to mean Jews; actually it means all the people who were living in Najran along with the Christians.

<sup>2</sup> "Religious standards" mean crosses, idols, pictures, etc. that are usually kept in churches and cathedrals.

<sup>3</sup> The objective of this clause is to protect the properties and Trusts of the Covenantees.

<sup>4</sup> The objective of this clause is not only that no Islamic army shall trample their lands, but they shall be defended and protected from all external aggression and attacks.

*shall not be responsible for the person who has consumed usury before this.<sup>1</sup> No one from amongst them shall be implicated in the crime of someone else. Whatever this document contains, Allah and His Prophet Muhammad (peace be upon him) shall always remain guarantors for it, unless another order from Allah is revealed, and as long as they (people of Najran) remain faithful and fulfil the rights and duties incumbent upon them according to this treaty."*

During the era of Caliph Abu Bakr, in the peace treaty that Hazrat Khalid bin Waleed wrote and executed in favour of the people of Heerah, he levied collectively on its entire inhabitants, excluding the poor and the indigent, a tribute of 60,000 Dirhams per annum at the rate of 10 Dirhams per person, against which it was assured on behalf of the Islamic government that:

*"Their places of worship and churches would not be demolished, nor would any of their forts be pulled down where they used to take shelter from their enemies, nor would they be restricted from striking the church bells, and nor would they be prevented from taking out their crosses during their festivals."<sup>2</sup>*

The text of the peace treaty that the Second Caliph, Hazrat `Umar wrote and executed in favour of the people of Jerusalem is:

*"Quarter is given to them, to their life and properties, to their cathedrals and crosses, and to their healthy and the sick. This clemency is for the entire people of Elia. It is hereby covenanted that their cathedrals shall not be made the dwellings of Muslims, nor shall they be demolished, nor shall their buildings and compounds be reduced, nor shall their crosses and properties be damaged. There shall not be*

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<sup>1</sup> It means that if a person, who had lent money on usury/interest before this treaty, were to claim interest after the treaty, he would not be helped in its recovery. However, in the text of the treaty quoted by Yaqoobi, instead of "before this" it is written "after this year." (Refer Vol. 4, p.63)

<sup>2</sup> Imam Abu Yusuf says that Caliph Abu Bakr approved and implemented this treaty. (*Kitab al-Khiraj*, p.84)



*any compulsion on them with regard to religion and nor any loss or injury shall be caused to anyone of them."*<sup>1</sup>

Some of the terms and conditions of the peace treaty which was written and executed by Hazrat `Umar in favour of the people of Damascus were:

*"Quarter is given to them, to their cathedrals and the ramparts of the city. Their dwellings shall not be demolished, nor shall they be made the dwellings of the Muslims. On this, for them are the covenant of Allah and the guarantee of His Prophet... They shall not be dealt with except with righteousness as long as they keep on paying their Jiziya."*<sup>2</sup>

The text of the peace treaty executed by Hazrat Khalid bin Waleed in favour of the people of `Aanaat was as follows:

*"Their places of worship and their churches shall not be demolished. They can ring their church bells at any time during the day or the night except during the time of Salat (Muslim prayer). They shall have the right to take out their crosses during the days of their festivals."*

Some of the terms and conditions of the peace treaty written and executed by Hazrat Abu `Ubaidah in favour of the people of Ba`lbak were as hereunder:

*"This is the text of the quarter granted to so-and-so, son of so-and-so,<sup>3</sup> and to the people of Ba`lbak irrespective of they being Romans or Persians or Arabs. Quarter is granted in respect of their life, properties, cathedrals and buildings whether they are inside the city or outside; and so also to their (flour) mills... Whoever embraces Islam from amongst them shall have the same rights as ours, and shall have same duties on him as we have on us. Their traders shall have the right to freely travel to the territories with which*

<sup>1</sup> This peace treaty was written and given to the people of Jerusalem when their military power had been completely shattered.

<sup>2</sup> This treaty was entered into when half of the city had already been captured by the armed forces.

<sup>3</sup> Probably, here the name of the ruler of Ba`lbak had been mentioned.

*we have established peace. Whoever amongst them remains on his religion, Jiziya and tribute shall be levied on him."*

In the peace treaty with the people of Wabeel, Hazrat Habib bin Maslamah wrote:

*"This is the treaty executed by Habib bin Maslamah in favour of the people of Wabeel, whether they are Christians or Zoroastrians or Jews, and those of them who are present and those who are not present. I hereby grant quarter to you, to your life, properties, cathedrals and places of worship, and the walls of your city. Hence, you are under this quarter; and as long as you stick on to your part of the covenant and pay the Jiziya and the tribute, it is incumbent upon us to fulfil our part of the covenant."*

Hazrat Huzaifa bin Yemaan wrote in the peace treaty of Azerbaijan:

*"Quarter is hereby granted to their life and properties, and to their communities and their religious laws."*

In the peace treaty of Jarjaan, the self-same Huzaifa wrote:

*"Quarter is hereby granted to their life and properties, and to their communities and their religious law; no changes shall be affected in anyone of them."*

And he wrote in the peace treaty of Maah-e-Deenar:

*"They shall not be forced to change their religion and nor shall their religious laws be interfered with."*

We have quoted these treaties extensively because we want our readers to have a general view of Islamic way of reconciliation and cessation of hostilities. By looking at just one or two treaties it is possible to think that perhaps the Prophet of Allah (peace be upon him) and his Companions were constrained to accede to these terms and conditions. But, here there are many peace treaties in front of you that had been entered with different countries of Arabia, Syria, Aljazeerah, Persia, etc. and in history you will find many more such peace treaties, and in every one of them you will find uniformity in the spirit of generosity shown to the conquered people.

We have particularly quoted here those treaties which the Prophet of Allah and his Companions had executed when they were a dominant power. The peace treaty with the people of Najran was executed when Islam was held in awe by the whole of Arabia, and when the people of Najran themselves had sent their leaders for peace and reconciliation in a state of great fear. The peace treaty with Heerah was executed at the time when Hazrat Khalid bin Waleed had conquered all the neighbouring territories with his military might, and the people of Heerah thought it prudent to go ahead and surrender. You have read that Syria and Jerusalem were about to be conquered and if Muslims wanted they could have conquered them by force and it was not difficult for them too. In such circumstances, executing peace treaties on the terms and conditions mentioned in the aforesaid peace treaties, cannot be an act of a people whose objective was to spread their religion by force, or who had taken up arms to obliterate other religions, or who had gone out with the sole objective of plunder, conquest of countries and acquisition of wealth and properties.

(ii) *Non-Covenantees*: The other kind of conquered people are those who have fought till the end and have surrendered their arms only when the Islamic armed forces have entered their habitats after demolishing all their defenses and fortifications. In respect of this type of conquered people, Islam has conceded the right of the victorious people to kill all their fighters, enslave their women and children and occupy their properties, if they so choose; but the preferable way that has been described by it is that they be made Zimmies (Protectees) and they be allowed to live in the same condition in which they were living before the war. Perhaps you might know that the custom of that era was to enslave the conquered people, occupy their properties and after the conquest of their cities destroy their military power completely by massacring their

population. It was very difficult for Islam to change this mental attitude of the era suddenly and to fight the customs of the time was against its method of reformation. Therefore, on the one hand, to satisfy the minds of those who were unduly impressed by the prevalent customs and practices, Islam retained that method only in letter, and on the other hand, the Prophet of Allah (peace be upon him) and his Companions created such a spirit of generosity and broad-mindedness in Muslims by their behaviour and examples that the Muslims themselves did not like to take advantage of this permission and gradually another contrary custom took root which practically cancelled the previous one. The era of the Prophet of Allah and the era of Rightly-Guided Caliphs and, rather, the entire Islamic history are witness to the fact that Muslims conquered thousands of cities and countries by military force, but nowhere did they massacre the population, nor did they enslave the inhabitants, nor did they confiscate their properties.<sup>1</sup> During the era of the Prophet, Khaibar was conquered by military force, but the Prophet of Allah (peace be upon him) made all its inhabitants Zimmies (protectees). Makkah was also conquered by military force, but neither its lands were confiscated and distributed amongst the armed forces, nor were the inhabitants enslaved. In the Battle of Hunain, the people of Huwaazan were subjugated and by the order of the Prophet of Allah, they were all freed.

During the Caliphate of Hazrat `Umar, when Syria and Iraq were conquered by military force, the Islamic forces demanded, for the first time, that the lands be distributed amongst the members of the armed forces and that their inhabitants be enslaved. Hence, they wrote to Hazrat `Umar:

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<sup>1</sup> The issue concerning the Jewish tribe of Banu Quraiza is an exception; it will be discussed in detail later in this book.

*"We have conquered this land by shedding our blood. Hence, distribute it amongst us and enslave its inhabitants."*<sup>1</sup>

However, Hazrat `Umar changed their hearts and minds by his powerful arguments and that ancient mental attitude changed forever. Imam Abu Yusuf has quoted the entire discussion that took place in the council of the Companions on this issue, by studying which we can understand how this reformative work was carried out. Hazrat Bilal and Hazrat Abdur Rehman bin `Auf demanded that the land be distributed amongst the armed forces and the inhabitants be enslaved. But Hazrat `Uthman, Hazrat `Ali, Hazrat Talha, Hazrat `Abdullah bin `Umar and all the eminent Ansaars were against it. All of them were of the opinion that it was not proper to adopt the policy of distributing the lands and enslaving the inhabitants of the conquered territories. Hazrat `Umar himself was strongly opposed to it; addressing the council, he said:

*"It is my opinion that I should leave the land in the hands of its non-Muslim inhabitants, levy on their land tribute, and Jiziya on their necks, and bring it in the domain of Fay, and this way the land could be a source of livelihood for the Muslim soldiers, their families and their future generations. Now is it your opinion that these territories should be made the personal properties of the people? In your opinion, is it necessary to distribute the larger provinces like Syria, Aljazeera, Kufa, Basra and Egypt amongst the armed forces? If it is done so, then from which source the salaries of the workers and pensions of the poor are to be paid?"*

On this argument, the council unanimously adopted the proposal of Hazrat `Umar and the entire people of Iraq were made Zimmies (protectees). After the conquest of Syria too this demand was made and this time Hazrat Zubair bin al-`Awaam was the leader of the claimants. But the statesmanship of Hazrat `Umar decided the matter in

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<sup>1</sup> Tabari (published in Europe), p.2467; *Futuh al-Buldan*, p. 277.

the same way as he had done with regard to Iraq.<sup>1</sup> After this, Muslims never again made such a demand. Muslims conquered countless territories right from India to Spain, Europe, Asia and Africa by military force and nowhere they used this right of conquest of plundering, enslaving and massacring the inhabitants.

Whenever this kind of conquered people are made Zimmies, they are given certain rights, details of which are found in the Islamic books of jurisprudence. A summary of these rights is given below, from which we can also understand the constitutional position of the Zimmies:

1. When the leader/ruler accepts Jiziya from them, then the covenant of protection is established permanently, and it becomes incumbent upon Muslims to protect their life and properties, because with the acceptance of Jiziya, inviolability of life and properties is immediately established,<sup>2</sup> after which the leader or the Muslims would not have the right to seize their properties or enslave them; Hazrat `Umar had very clearly instructed Hazrat Abu `Ubaida as such.<sup>3</sup>
2. After the establishment of covenant of protection, they shall remain owners of their lands, their ownership shall be transferable to their heirs, and they shall have all the rights to sell, gift, or mortgage their properties<sup>4</sup> and the Islamic government shall not have any right to interfere with them.
3. The amount of Jiziya shall be fixed according to their financial position; the rich shall pay more, the middle class a little less than them; and even lesser than that by the poor. Those who do not have their own sources of income or those who depend on others for their livelihood shall be exempted from payment of Jiziya.

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<sup>1</sup> *Kitaab al-Khiraaj*, p.13-15.

<sup>2</sup> *Badai'ye al-Sanaye*, Vol. 7, p. 111.

<sup>3</sup> *Kitaab al-Khiraaj*, p. 82.

<sup>4</sup> *Fath al-Qadeer*, Vol. 4, p.359.

Although no particular amount has been fixed as Jiziya, while fixing the amount it shall be kept in mind that only such amount is fixed which can be easily paid by them. Hazrat `Umar had fixed one Dirham on the rich, half a Dirham on the middle class people, and quarter of a Dirham on the labourers as Jiziya.<sup>1</sup>

4. Jiziya shall be levied only on those men who are capable to fight; those who are incapable to fight, e.g., the children, the women, the mad, the blind, the invalid, servants of places of worship, the very old, the indigent, the monks, and such sick persons who are sick for a greater part of a year, slaves and slave-girls, etc. shall be exempted from payment of Jiziya.<sup>2</sup>
5. Muslims shall have the right to occupy the places of worship of the cities conquered by military force. But it shall be preferable and loftier not to take advantage of this right and to allow them to remain in their original state. In the countries conquered during the reign of Hazrat `Umar, not a single place of worship was demolished nor any one of them was interfered with. Imam Abu Yusuf writes: "They were retained in their original condition; neither were they demolished nor were they interfered with."<sup>3</sup> Anyhow, it is forbidden to demolish old places of worship."<sup>4</sup>

## 10. Common Rights of the Zimmies (Protectees)

Now we will describe those rights which are common to all Zimmies irrespective of they being covenantees or non-covenantees, and they having been conquered by means of a peace treaty or by military force.

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<sup>1</sup> *Kitaab al-Khiraaj*, p. 36.

<sup>2</sup> *Badai'ye*, Vol. 7, p. 111-112; *Fath al-Qadeer*, Vol. 4, p.372-373; *Kitaab al-Khiraaj*, p. 70.

<sup>3</sup> *Kitaab al-Khiraaj*, p. 82.

<sup>4</sup> *Kitaab al-Khiraaj*, p. 82.

1. The value of the blood of a Zimmi shall be equal to that of a Muslim. If a Muslim were to murder a Zimmi, he would be killed in retaliation in the same manner if a Muslim had been murdered.

During the era of the Prophet of Allah (peace be upon him), a Muslim murdered a Zimmi, and the Prophet passed orders to execute him, and said: "I have got greater right to fulfil the covenant of guardianship given to him."<sup>1</sup>

During the era of Hazrat `Umar, a person belonging to the tribe of Bakr bin Waayel, killed a Zimmi from Heerah; he passed orders that the murderer be handed over to the heirs of the murdered person. Hence, he was handed over to his heir and the heir killed him.<sup>2</sup>

During the reign of Hazrat `Usman, a fatwa (legal edict) had been issued for execution of no less a person than the son of Hazrat `Umar, `Ubaidullah bin `Umar himself, when he had killed Harmzan and the daughter of Abu Lulu, on the suspicion of their involvement in the plot to murder Hazrat `Umar.

A Muslim was accused of murdering a Zimmi during the era of Hazrat `Ali. When the crime was proved, he ordered that the accused be executed. The brother of the murdered person came and said that he had pardoned the murderer. But Hazrat `Ali was not satisfied and said: "Perhaps people might have threatened you." He said: "No; I have received the blood money, and I think that by killing him my brother would not return." Then only Hazrat `Ali released the murderer and said: "Whoever is our Zimmi, his blood is similar to our blood and his blood-money is similar to our blood-money."<sup>3</sup> According to another narration, Hazrat `Ali said: "They have accepted the covenant of guardianship

<sup>1</sup> *`Inayah, Sharh Hidayah*, Vol. 8, p. 256.

<sup>2</sup> *Burhan, Sharh Mawahib al-Rahman*, Vol. 3, p. 287.

<sup>3</sup> *Burhan, Sharh Mawahib al-Rahman*, Vol. 2, p. 287.



only because they want their wealth and properties and their blood to become similar to our own wealth and properties and our own blood.” On the basis of this declaration, the Islamic jurists have derived a sub-clause of the law that if a Muslim were to kill a Zimmi unintentionally, his blood-money would be equivalent to the blood-money of a Muslim similarly killed.<sup>1</sup>

2. Under the Islamic Criminal Laws, the status of a Zimmi and a Muslim is equal. Punishments given to a Zimmi for crimes committed by him shall be the same as given to a Muslim. Whether a Muslim steals from a Zimmi, or a Zimmi steals from a Muslim, in both cases, the hand of the thief shall be severed. If a Zimmi fornicates with a Muslim woman or a Muslim fornicates with a Zimmi woman, punishment in both cases shall be the same.<sup>2</sup>
3. There is complete equality between a Muslim and a Zimmi with regard to Civil Laws too. The declaration of Hazrat `Ali that “their wealth and properties are like our wealth and properties” means that their wealth and properties shall be protected as the wealth and properties of Muslims are protected. In this respect, the rights of the Zimmies are safeguarded to such an extent that if a Muslim were to destroy their stocks of wine or kill their pigs, he would be held responsible for it. It is written in *Durr al-Mukhtar*: “The Muslim shall pay the value of the wine and the pigs, if he destroys them.”<sup>3</sup>
4. It is unlawful to hurt a Zimmi with the tongue or with hands and feet; to abuse him and to beat him or back-bite him is as unlawful as it is in case of a Muslim. It is written in *Durr al-Mukhtar*: “It is mandatory to desist

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<sup>1</sup> *Durr al-Mukhtar*, Vol. 3, p. 273.

<sup>2</sup> *Kitaab al-Khiraaj*, p.108-109.

<sup>3</sup> *Durr al-Mukhtar*, Vol. 3, p. 273.

from hurting him and forbidden to back-bite him as in the case of a Muslim."<sup>1</sup>

5. The covenant of protection has a permanency from the side of the Muslims, i.e. they cannot breach it once they have contracted it. But on the other side, Zimmies have the choice to fulfil the covenant or discord it.<sup>2</sup>
6. The covenant of protection does not get terminated even if the Zimmi commits gravest of crimes. Crimes such as stopping to pay the Jiziya, killing a Muslim, insulting the Prophet of Allah (peace be upon him), or raping a Muslim woman, will not entail in suspension of the protection (he will only be punished for the crimes according to Law). However, in two situations the covenant of protection gets terminated: first, departing the Islamic territories and joining the enemies and the second, spreading mischief by rebelling openly against the Islamic government.<sup>3</sup>
7. The personal issues of the Zimmies shall be adjudicated according to their Personal Laws and Islamic Law shall not be promulgated on them. The acts which are prohibited in their religion too shall be prohibited in all circumstances, but those acts which are lawful in their religion but forbidden in Islam, can be freely performed in their habitats, and the Islamic government has the liberty to ban or allow their performance in purely Islamic habitats.<sup>4</sup> It is written in *Badai'ye*:

*"The Zimmies will not be prohibited to sell wine and pigs, and take out their crosses and ring their church bells in those habitats and places which are not among the Amsaar al-Muslimeen, however strong might be the Muslim*

<sup>1</sup> *Ibid*, Vol. 3, p. 273-274

<sup>2</sup> *Badai'ye*, Vol. 7, p. 113.

<sup>3</sup> *Badai'ye*, Vol. 7, p. 113; *Fath al-Qadeer*, Vol. 4, p. 381-382.

<sup>4</sup> Purely Islamic habitats mean those places which are known in Islamic terminology as *Amsaar al-Muslimeen*. This is applied only to those places whose land is owned by Muslims and which have been exclusively appropriated for the manifestation of Islamic standards and practices.

*population in those places. But these acts are repugnant in Amsaar al-Muslimeen where Friday and Eid prayers are performed and where Hudood (Divine Ordinances) are promulgated... As far as the other sins, which are also forbidden in their religion, like fornication and other vile deeds, they would be forbidden in all places, be them their habitats or our habitats."*<sup>1</sup>

However, the Zimmies have been restricted to take out their crosses and idols in procession and openly come out in markets ringing their bells and blowing their conches.<sup>2</sup> They are allowed to perform their religious practices inside their places of worship and their habitats; the Islamic government is not entitled to interfere in such practices.

8. The places of worship in the Muslim habitats which were in existence from the beginning shall not be interfered with. If they get destroyed, they can be reconstructed in the same place; but shall not have the right to construct new places of worship.<sup>3</sup>
9. Zimmies shall have general permission to construct new places of worship in the places which are not Muslim habitats. Similarly, in those places which are no longer Muslim habitats, i.e. where the governor has stopped performance of Friday and Eid prayers and performance of other religious practices, it is lawful for the Zimmies to construct new places of worship and perform their other religious practices.<sup>4</sup> Below is the legal edict of Hazrat `Abdullah bin `Abbas in this regard:

*"The Zimmies shall not have the right to construct new places of worship and cathedrals, or ring their church bells,*

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<sup>1</sup> *Badai`ye*, Vol. 7, p. 113.

<sup>2</sup> The objective of this restriction in the Muslim habitats is to avoid clashes between Muslims and the non-Muslims; unfortunately, people of the later generation have misunderstood its objective.

<sup>3</sup> *Badai`ye*, Vol. 7, p. 114.

<sup>4</sup> *Ibid*, p. 114.

*drink wine and rear pigs in the cities that have been founded and made inhabitable by Muslims. As far as those cities which were founded by the non-Arabs and over which Allah gave victory to the Arabs (i.e. Muslims) and they having accepted subjugation on the orders of Muslim, shall have such rights as would be agreed upon in their respective covenants, and it is incumbent upon Arabs to fulfil them."*<sup>1</sup>

10. It is forbidden to torture the Zimmies to collect Jiziya and tribute. Strict instructions have been issued to treat them gently and with kindness, and not to burden them beyond their means and capabilities.

It is also forbidden to commit excesses in fixing the amount of Jiziya on the Zimmies. Hazrat `Umar's last advice was: "Do not burden them with the amount which is beyond their means."<sup>2</sup>

Their properties cannot be auctioned in lieu of Jiziya. It is the edict of Hazrat `Ali: "Do not sell off their donkeys or cows or their clothes to recover the tribute."<sup>3</sup>

On another occasion, while sending his governor on his assignment, Hazrat `Ali instructed him:

*"In order to collect the tribute do not sell off their winter and summer clothes, their foodstuff, and their animals which they use for tilling their lands; do not lash them to collect Dirhams, nor give them punishment of standing, nor auction any of their things in lieu of tribute, because having been made their rulers, our duty is to collect from them gently. If you act against my instructions, instead of me, Allah will hold you responsible, and if I come to know about your disobedience then I will dismiss you."*<sup>4</sup>

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<sup>1</sup> *Kitaab al-Khiraaj*, p. 88.

<sup>2</sup> *Ibid*, p. 8 & 82.

<sup>3</sup> *Fath al-Bayaan*, Vol. 4, p. 93.

<sup>4</sup> *Kitaab al-Khiraaj*, p. 9.

The instructions which Hazrat `Umar sent to the governor of Syria, Hazrat Abu `Ubaida contained among other things, the following:

*"Prohibit Muslims from oppressing and hurting them and unlawfully consuming their wealth and properties."*<sup>1</sup>

During his visit to Syria, Hazrat `Umar noticed his officers punishing the Zimmies to collect the Jiziya, and said to them: "Do not torture them; if you torture them in this world, Allah would torture you on the Day of Judgment."<sup>2</sup>

Hishaam bin Hakam saw in Hums that a government officer had forced a Copt to stand in the sun in order to collect Jiziya. He reprimanded him and said: "I have heard the Prophet of Allah (peace be upon him) saying that Allah would torture those who torture people in this world."<sup>3</sup>

However, the Islamic jurists have given permission to sentence those Zimmies who do not pay the Jiziya with simple imprisonment.<sup>4</sup>

11. Those Zimmies who become indigent shall not only be exempted from payment of Jiziya but shall be given pensions from the treasury of the Islamic government. In the peace treaty executed by Hazrat Khalid bin Waleed in favour of the people of Heerah, among other things, he wrote:

*"I have granted them this right too that if anyone of them is to become disabled because of old age, or gets afflicted with a misery, or a rich person becomes poor and indigent inasmuch as his religious brethren begin giving him alms, then he shall be exempted from payment of Jiziya and his and his family's expenses shall be borne by the Muslim treasury."*<sup>5</sup>

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<sup>1</sup> *Ibid*, p. 82.

<sup>2</sup> *Ibid*, p. 71.

<sup>3</sup> *Abu Dawood; Kitaab al-Khiraaj*.

<sup>4</sup> *Kitaab al-Khiraaj*, p. 70.

<sup>5</sup> *Ibid*, p. 85.

Once, Hazrat `Umar noticed a very old man, who was a Zimmi, begging. When he enquired about this abominable act, he said that he was begging to pay the Jiziya. Hazrat `Umar exempted him from Jiziya and ordered payment of pension to him and wrote to the Treasurer: "By Allah, it is not right and just to take advantage of him when he was young and to debase him in his old age."<sup>1</sup> During his visit to Syria, Hazrat `Umar had ordered payment of pensions to disabled Zimmies.<sup>2</sup>

12. If a Zimmi dies and Jiziya is due from him, it shall not be collected from his estate, nor shall it be collected from his heirs.<sup>3</sup>
13. Tax shall be levied on Zimmi traders too as is levied on Muslim traders, when their capital reaches 200 Dirhams or when they become owners of 20 Misqaal gold.<sup>4</sup> No doubt, in the earlier period, the Islamic jurists had recommended fixation of a tax of 5 per cent on the Zimmi traders and 2.5 per cent on the Muslim traders. However, this was not based on any specific rulings from the Quran and the Sunnah; rather it was based on deliberation of the legists and specific needs of the situation. During that era, majority of the Muslims were engaged in either prosecuting the war or guarding the borders of the Islamic territories and the entire trading activities were in the hands of the Zimmies. Therefore, to encourage the Muslim traders and to protect their trading interest, lesser tax was levied on them.
14. Zimmies shall be exempted from military service; defense of the country shall be the responsibility of the

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<sup>1</sup> *Ibid*, p. 72.

<sup>2</sup> *Futuh al-Buldan*, (European Edition), p. 129.

<sup>3</sup> *Kitaab al-Khiraaj*, p. 70.

<sup>4</sup> *Kitaab al-Khiraaj*, p. 70.

Muslims alone.<sup>1</sup> Since Jiziya is collected from the Zimmies as a consideration for providing them security and protection, Islam does not consider it lawful to burden them with military service, nor collecting the Jiziya from them is lawful when Muslims are unable to protect them. If the Muslims cannot provide security to the Zimmies, they forfeit the right to benefit from the wealth collected as Jiziya. When the Romans assembled a very large army in Yermuk to fight the Muslims and the Muslims felt the necessity to leave the conquered territories and assemble at one point, the Chief of the Muslim forces, Hazrat Abu 'Ubaida, wrote to his commanders to return the money that had been collected as tribute and Jiziya to the Zimmies and to tell them: "Now, we are unable to provide you with security and, therefore, returning the money that we had collected from you in consideration of providing security and protection to you."<sup>2</sup> On these orders, the commanders of all the contingents returned the collected amount.<sup>3</sup>

These are only a few ordinances of the Islamic Law which have been quoted here to show that no parallel can be found not only in the laws and practices prevalent in the previous nations, but also, in many aspects, in the present so-called civilized nations of the way in which Islam treated its conquered people with justice and equality. This Law was not just a piece of paper, but has with it a very great and lofty history of practical implementation too. Hence, for each and every clause of this Law, we have

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<sup>1</sup> Here only one aspect of the issue has been discussed. I have discussed the other aspects of the issue in my other writings.

<sup>2</sup> *Kitaab al-Khiraaj*, p. 70.

<sup>3</sup> *Balazuri* writes that when the Muslims returned the money of Jiziya to the inhabitants of Hums, they said: "Your government is dearer to us than the oppression and tyranny with which we had been earlier subjected to. Now, we shall never allow the governor of Heraclius to enter our city unless we get subjugated in a fight." (*Futuh al-Buldan*, European Edition, p. 137)

quoted examples from the Prophet's Traditions and authentic historical books so that the readers can well understand how the Prophet of Allah (peace be upon him) and his august Companions practically implemented this Law. Even after the eras of the Prophet and his Companions, the Islamic jurists have always been getting this Law implemented properly and in its entirety. Whenever, the unruly rulers acted against the Law, the Islamic scholars and jurists have always tried to stop them or at least force them to recompense it. It is a very well-known incident of history that in Damascus, the Omyyad Caliph, Waleed bin Malik had forcibly confiscated the Cathedral of Yuhanna (John) and annexed it to a mosque. When Hazrat `Umar bin `Abdul `Azeez, ascended the Caliphate, the Christians complained to him about this, and he ordered his governor that the portion of the mosque which had been built on the land of the cathedral be demolished and handed over to the Christians.<sup>1</sup>

When Waleed bin Yezeed, apprehensive of an attack from the Romans, deported the Zimmies of Cyprus and settled them in Syria, Islamic Jurists and common Muslims got very much annoyed and considered the action a great sin. On the other hand, when Yezeed bin Waleed resettled these Zimmies in Cyprus he was generally praised and hailed for his action.<sup>2</sup>

Balazuri says that once a group from the inhabitants of Mount Lebanon rebelled. To crush this rebellion, Saleh bin `Ali bin `Abdullah sent an army which killed all the rebels; out of the remaining inhabitants, a group was deported and another group was allowed to remain there. Imam Awza`yee was alive at that time and he severely reprimanded Saleh and wrote him a lengthy letter, part of which is quoted below:

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<sup>1</sup> *Futuh al-Buldan*, p. 122.

<sup>2</sup> *Futuh al-Buldan*, (European Edition), p. 156.



*"You very well know about the deportation of the Zimmies from Mount Lebanon. Amongst them are some who had not taken part in the rebellion. But in spite of this, you killed some of them and deported some others from their habitats. I am unable to understand how the masses can be punished for the crime of a few particular persons and on what basis they can be deported from their homes and properties, when it is Allah's Law that لا تَزِرُ وَازِرَةٌ وِزْرَ أُخْرَى ("No bearer of burdens can bear the burden of another"<sup>1</sup>) and this is an obligatory Law. The best advice for you is that you should always remember the saying of the Prophet of Allah (peace be upon him) that: 'I would be the plaintiff (on the Day of Judgment) against the person who oppresses a covenantee and burdens him beyond his means and strength.'"<sup>2</sup>*

We find these and similar countless examples in the history, from which it is evident that the Islamic scholars and jurists have always defended the rights of Zimmies; if any ruler or king had oppressed and tyrannized the Zimmies, it was against the Islamic Law and Islam cannot be held responsible for it.

## 11. The Issue of Clothing of the Zimmies

There is one more issue, however, in Islam which has given its opponents room to raise a great deal of objections, and that issue is the clothing of the Zimmies. But, it is unfortunate that in the beginning the tenor of the issue was not that which was made out to be in the later periods, from which the people got the opportunity to think that Islam prescribed a particular kind of attire for Zimmies to insult and debase them. There is no doubt that in the treaties executed during the eras of Hazrat Abu Bakr and Hazrat `Umar, we find such a clause which prohibits Zimmies from wearing a particular kind of attire and instructs them

<sup>1</sup> The Quran, 6:164.

<sup>2</sup> *Futuh al-Baladan*, p. 169.

not to imitate Muslims in the style of their clothing. For example, in the treaty of Heerah we find this clause:

*"They shall have the right to wear clothing of their choice, but they shall not wear military uniform and shall not imitate Muslims."*<sup>1</sup>

Similarly, in the Treaty of Damascus, whose terms and conditions were proposed by the Christians themselves, the following clause is found:

*"We shall neither adopt the resemblance of the Muslims in their clothing, nor in their caps, nor in their turbans, nor in their shoes, and nor in the way they part their hair."*<sup>2</sup>

In our books of jurisprudence too, we find such rulings. For example, in *Bada'ye* it is written:

*"The Zimmies shall adopt such signs from which they can be identified, and they shall not be allowed to imitate Muslims in their clothing."*<sup>3</sup>

Imam Abu Yusuf in his book *Kitaab al-Khiraj* too has described such rulings that prohibit Zimmies from imitating Muslims in their clothing and bearing.<sup>4</sup>

All these rulings, no doubt, have been described by our leading scholars and jurists. But their objective is not to debase the Zimmies; rather it was to stop intermingling of different religious groups.<sup>5</sup> Hence, as the Zimmies have been prohibited from imitating Muslims, so also Muslims have been prohibited from imitating the Zimmies. Islam is not unaware of the traits of depravation hidden in the

<sup>1</sup> *Kitaab al-Khiraaj*, p.85.

<sup>2</sup> *Ibn Katheer*, Vol.4, p.475.

<sup>3</sup> *Bada'ye al-Sana'ye*, Vol.7, p. 113.

<sup>4</sup> These ordinances have been described in detail from pp. 72-73.

<sup>5</sup> Unfortunately, the Islamic jurists of later periods have also wrongly understood the objective of this ruling to be to debase the Zimmies, and hence, have written in their books: "This is to manifest the signs of disgrace on them." But this was never the opinion of the Islamic jurists of earlier periods. Hazrat 'Umar himself, who was the legislator of this ruling, is silent about it; he has never said that the objective of prohibiting the Zimmies from imitating Muslims was to disgrace them.

imitation of clothing.<sup>1</sup> Usually, the subjugated people begin to consider their clothing and their social customs abominable and feel proud to adopt the clothing and customs of the ruling class. This kind of servile mind-set can be found in the conquered people even today. In India itself, we see Indians wearing the English attire with great fondness and after wearing it feel that they have reached the pinnacle of progress, although no British has ever worn the Indian attire, and if at all anyone has worn it occasionally in the English social gatherings, he has done so not to feel proud of it but as a sort of buffoonery and for amusement. The Islamic scholars and jurists had very well understood this point of psychology of servitude. Therefore, by forbidding the Zimmies from imitating the Muslims, they have not insulted or debased them; rather they have maintained their national honour and nobility. It is possible some people may think such types of laws insulting, but we do not consider them insulting at all; rather we would have been very happy if our British rulers had forcibly forbidden us from imitating them in their way of clothing and in their way of life.<sup>2</sup>

More misunderstanding has been created by those rulings by which it has been ordered that the Zimmies should wear the cross-thread, wear double-laced shoes,

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<sup>1</sup> I have written a booklet in Urdu on the issue of imitation, titled *The Issue of Clothing*.

<sup>2</sup> These words had been written when the Indian Subcontinent used to be one country and British were its rulers. But it is very strange that even after the British quitting the country and even after India and Pakistan becoming two independent and sovereign States still the situation is the same as has been described above. Even after gaining independence, we do not see any change in both the countries. Because of the effects of a long period of servitude which have ingrained deeply on the hearts and minds, the people of both the countries have never felt that the English attire and social customs are not things to be proud of and our own attire and culture are not to be ashamed of. And what is interesting is that the British who chose to remain over in both the countries as the servants of the respective governments have never felt that they have to adopt the local attire and customs now that they are no longer the rulers.

wear a long cap and there should be a round piece of wood in front of their saddle. People think that these rulings are of permanent nature in respect of Zimmies and that Islam has particularized these features only for them. As a matter of fact, these rulings do not form basic ordinances but are only sub-clauses. The basic law is that the Zimmies should wear their national attire and should not imitate Muslims. From this basic law, the jurists of the time have derived sub-clauses and have made obligatory for Zimmies that kind of attire and bearing which were in vogue amongst the Zoroastrians of Persia and the Christians of Syria. It does not mean that Zimmies of every country and every era should wear cross-thread, long caps and shoes with double laces; these rulings were for a particular period and era. Now, the present-day Islamic jurists can derive similar rulings from the basic rule of منع تشبه با المسلمين (*prohibition to imitate Muslims*).

## 12. A Few Exceptions

The rules and regulations and the restrictions and limits of war and its adjuncts determined by Islam have been described in detail in the foregoing pages. But during the eras of the Prophet of Allah (peace be upon him) and the Rightly-Guided Caliphs, a few incidents have occurred which seem to be contrary to these rules and regulations, and an ignorant person may suspect that perhaps the real laws of Islam are not those that have been described here, or that there are differences and contradictions in its laws, or that the actions of the Prophet of Allah (peace be upon him) and his Companions were against the Islamic Law. Therefore, before concluding this chapter, it is necessary to explain these exceptional incidents.

(i) **Deportation of Banu Nadheer:** In this connection, the first incident is the deportation of Banu Nadheer. This was a Jewish tribe which had inhabited Yathrib (Madinah) since centuries. After the migration of the Prophet of Allah

(peace be upon him) to Madinah, he entered into a treaty with them, and after the Battle of Badr deported them from Madinah. The opponents take this incident to mean that the Prophet of Allah (peace be upon him), Allah forbid, deceived Banu Nadheer, i.e. when he was weak he entered into a treaty with them and when gained power and strength breached the treaty and deported them. But this is the result of just glancing at the outward appearance of the incident; otherwise, if we go into its details, the facts of the incident appear to be contrary to this assumption and in fact, it was the Jewish tribe of Banu Nadheer who was guilty of breach of the treaty rather than the Prophet of Allah (peace be upon him), and it would be proved beyond any doubt that the military action taken by the Prophet of Allah (peace be upon him) against it was not at all an act of tyranny but was right and just.

The facts of the incidents are that when the Prophet of Allah (peace be upon him) migrated from Makkah and settled in Madinah, he entered into a treaty<sup>1</sup> with Banu Nadheer and other tribes, the fundamental condition of which being that parties to the treaty would not take any inimical action against each other, nor would they help each other's enemies. Hafiz Ibn Hajar writes:

*"It was covenanted with them that they would not wage war against him, nor would they help his enemies."*<sup>2</sup>

After this treaty, the Prophet of Allah (peace be upon him) and all other Muslims feeling secured started to mingle and cultivate friendship with them. However, against the terms and conditions of the treaty, they were plotting against Muslims in connivance with the infidels of Quraish and started to secretly supply them with the confidential information about the Muslims. Musa bin `Uqba has written in *Maghazi*:

<sup>1</sup> Ibn Hisham has quoted this treaty in detail in the biography of Prophet Muhammad written by him.

<sup>2</sup> *Fath al-Baari*, Vol. 7, p. 131.

*"Banu Nadheer used to conspire with the Quraish and excite them to wage war against the Prophet of Allah (peace be upon him), and used to convey them confidential information."*<sup>1</sup>

They were not contented with just these, but on numerous occasions tried to assassinate the Prophet of Allah (peace be upon him). Once, they sent word to the Prophet of Allah (peace be upon him): "Please come with three of your men and we will send three of our scholars; on a neutral ground you can debate with them. If you prove your religion to be true, then we will all embrace Islam." The Prophet of Allah (peace be upon him) accepted the invitation. But he had not yet started for the designated spot, when a woman from Banu Nadheer itself informed her brother who was a Muslim that the Jews were coming with knives and that they wanted to kill your Prophet. On coming to know of this, the Prophet of Allah (peace be upon him) cancelled the trip.<sup>2</sup>

On another occasion, the Prophet of Allah (peace be upon him) went to the habitat of Banu Nadheer along with two persons of Bani `Aamir to settle a case of blood-money. The people of Banu Nadheer outwardly were very friendly and said that they were ready to extend all help in the matter, but on the other hand conferred with each other that: "You will not find this person in this situation again; it would be better if one of us were to climb the roof of the house and crush him with a heavy stone." When this was decided upon, they designated `Amr bin Hajjash bin K`ab for the task. But the Prophet of Allah (peace be upon him) came to know about it at the precise moment and came out of the house.<sup>3</sup>

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<sup>1</sup> *Ibid*, p. 233.

<sup>2</sup> This incident has been mentioned, with a slight variation, in *Abu Dawood*, and in *Fath al-Baari*, Vol. 7, p. 233.

<sup>3</sup> *Tabari* (Egyptian Edition), Vol. 3, p. 37; *Fath al-Baari*, Vol. 7, p. 232; *Futuh al-Buldan*, p. 24.

This incident ended the tolerance shown towards Banu Nadheer. Because of their continuous breach and conspiracies, it was feared that they might endanger the security of Madinah in the event of an enemy attacking it. It was also feared that they might as well try to assassinate the Prophet himself; Muslims were so much worried about the safety of the Prophet of Allah (peace be upon him) that once when a Companion of the Prophet was at the verge of death, he advised his relatives not to inform the Prophet about his death in the night lest he was assassinated by a Jew while attending his funeral prayers.<sup>1</sup> In such circumstances, it was impossible to ignore these unfaithful enemies any longer. However, the Prophet of Allah (peace be upon him) did not attack them suddenly, but gave them an ultimatum through Muhammad bin Muslima that:

*"You have transgressed against me; hence either you yourselves vacate Madinah within 10 days or I would be forced to wage war against you."*

On the other side, the Chief of the Hypocrites, Abdullah bin Ubai, sent a message to them not to vacate Madinah and that he would help them. Hence, their reply to the Prophet's ultimatum was that:

*"We are not going to vacate our native land; you can do whatever you want to do."<sup>2</sup>*

In these circumstances, who can say that the Prophet of Allah (peace be upon him) was not justified in waging war against them. The Prophet had completed all the formalities in this regard and had allowed them maximum latitude that could be allowed in the face of their continuous breach of the treaty. Only then he took out his forces and besieged the habitat of Banu Nadheer. Before any kind of battle or bloodshed could take place, Banu Nadheer got jittery and they themselves proposed to the Prophet of Allah (peace be upon him) that they be pardoned and be allowed to migrate

<sup>1</sup> *Usud al-Ghaaba*, Vol. 3, p. 57.

<sup>2</sup> *Tabari*, Vol. 3, p. 38; *Fath al-Baari*, Vol. 7, p. 233; *Futuh al-Buldan*, p. 24.

to Syria with whatever goods they could carry on the backs of the camels and leave the rest in Madinah itself. The Prophet of Allah (peace be upon him) accepted this proposal and Banu Nadheer were allowed to proceed towards Syria through Islamic territories without any harm or hindrance.<sup>1</sup> Balazuri writes about this incident thus:

*"Then they contracted peace with him on the condition that they would exit from his city and except for their arms, whatever goods their camels could carry are theirs."*<sup>2</sup>

Hafiz Ibn Hajar has written:

*"Then they requested that they be allowed to exit from their territory, and whatever goods their camels could carry be theirs; hence peace was contracted based on this."*<sup>3</sup>

Now, it is very clear that after declaration of war when the people of Banu Nadheer could have been easily subjugated and fully avenged, accepting their condition of peace and allowing them to migrate not only with their lives but also whatever they could carry on the backs of their camels, could not have been the result of nothing but mercy and love for peace, and only that person could have done it whose only objective was not devastation and bloodshed but eradication of evil and oppression. However, it was very unfortunate that for this act of mercy and benevolence the Prophet received a very bitter return. These enemies of Islam and the Prophet, whom he had shown mercy by letting them off even when they were fully under his control, after migrating from Madinah spread such a network of intrigues and conspiracies throughout Arabia that just in two years they were able to gather an army of 24,000 and attack Madinah. If the Prophet had annihilated these enemies earlier, this attack might not have materialized. But it was against the merciful and magnanimous nature of the Prophet of Allah (peace be

<sup>1</sup> Tabari, Vol. 3, p. 38.

<sup>2</sup> Futuh al-Buldan, p. 24.

<sup>3</sup> Fath al-Baari, p. 232.



upon him) to reject the appeal of mercy from a subjugated enemy. He very well knew about the severity of their animosity and also knew that these mischief-mongers would not lie low for long, but still when they requested quarter, he granted it.

(ii) *Execution of People of Banu Quraiza*: The objections to the execution of the people of Banu Quraiza are even more severe than the above incident concerning Banu Nadheer. The people of Banu Quraiza were also Jewish like Banu Nadheer and were the inhabitants of Madinah. When the Prophet of Allah (peace be upon him) came and settled in Madinah, he contracted the same treaty with them as he had done with other Jewish tribes. After the battle with Banu Nadheer, he invited Banu Quraiza and contracted a new treaty and also renewed the old treaty.<sup>1</sup> But during the Battle of Ahzaab, when they sided openly with the enemies, the Prophet, after the end of the Battle, attacked them. He executed their adult men, enslaved their women and children and distributed their wealth amongst the Muslims. From this incident, the opponents accuse the Prophet of Allah (peace be upon him) of breach of contract, cruelty and callousness. But when we consider the details of the incident, its reality is quite contrary to what the opponents describe and assume.

As has been stated above, two peace treaties were contracted with Banu Quraiza; one was that general treaty which had been contracted with all the Jewish and Arab tribes including Banu Quraiza, and the other was that particular treaty which was contracted with them after the Battle of Banu Nadheer. In view of these two treaties, it was incumbent upon Banu Quraiza not to participate in any kind of inimical activities against the Prophet of Allah (peace be upon him) and his followers. But in the Battle of Ahzaab, on the instigation of Banu Nadheer, when all the

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<sup>1</sup> Abu Dawood; *Kitaab al-Khiraj*

major Arab tribes had combined their forces and had mounted an attack on Madinah to obliterate Islam, Banu Quraiza openly broke the treaty on the instigation of Hai bin Akhtab Nadhri, and joined the battle against the Muslims.<sup>1</sup> When the Prophet of Allah (peace be upon him) came to know about the breach of contract, he sent Hazrat Sa'd bin Mu'az and Sa'd bin 'Ubada as emissaries to Banu Quraiza and advised them to be faithful to the treaties; but they openly and clearly said that they did not recognize any contract or treaty between them and the Muslims.

By breaching the treaties at a very critical moment and joining the battle, Madinah was besieged from two sides; on the one side were the armed forces of Quraish, Ghatfan and others, and on the other were Banu Quraiza, and the place which was in immediate and most perilous situation was the fort in which Muslims had sent their women and children for safety and security as it was in the range of Banu Quraiza and they were threatening to besiege it. Muslims were terrorized and were extremely worried about this situation to such an extent that the Prophet of Allah (peace be upon him) had even decided to contract a peace treaty with some of the attackers on payment of one-third of Madinah's produce as tribute.<sup>2</sup> The Holy Quran describes this situation thus:

إِذْ جَاءُوكُم مِّن فَوْقِكُمْ وَمِنْ أَسْفَلَ مِنكُمْ وَإِذْ زَاغَتِ الْأَبْصَارُ وَبَلَغَتِ

الْقُلُوبُ الْحَاجَازَ وَتَظُنُّونَ بِاللَّهِ الظُّنُونَا ﴿١٠﴾ (الأعراب: 10)

*"Behold! They came on you from above you and from below you, and behold, the eyes swerved and the hearts gaped up to the throats, and you imagined various (vain) thoughts about Allah!*

*(The Quran, 33:10)*

Explaining the above Verse, Hazrat Huzaifa says:

*"On that night we were extremely worried. On the one side Abu Suftyan and his companions came from the above with*

<sup>1</sup> *Ibn Atheer* (Egyptian Edition), Vol. 2, p. 67; *Fath al-Baari*, Vol. 7, p. 280.

<sup>2</sup> *Ibn Atheer*, Vol. 2, p. 68; *Fath al-Baari*, Vol. 7, p. 281.

*their powerful armies, and on the other side, Banu Quraiza advanced from below and from their attack the security of our women and children got endangered."*<sup>1</sup>

After this kind of severe and dangerous treachery it was suicidal to keep on indulging with them. Therefore, at the end of the Battle of Ahzaab, the Prophet of Allah (peace be upon him) besieged the fort of Banu Quraiza. After 15 or 25 days of siege, when Banu Quraiza noticed that the Muslim army was not going to lift the siege, they sent a message to the Prophet of Allah (peace be upon him) that whatever Hazrat Sa'd bin Mua'z would decide in their case they would accept it.<sup>2</sup> In some other narrations, it is reported that Banu Quraiza left the decision to the Prophet of Allah (peace be upon him) himself, and the Prophet appointed Hazrat Sa'd bin Mua'z as an arbitrator because he had been their ally and no one would doubt that he would be unjust to them while arbitrating.<sup>3</sup> Anyhow, whatever may be the circumstances, Hazrat Sa'd was appointed the consensual arbitrator, and he passed the judgment that all adult men of Banu Quraiza be executed, their women and children be enslaved, and their wealth be distributed among the Muslims; this judgement was implemented and accordingly all their men were executed.

As far as the allegation of breach of contract on the part of the Muslims is concerned, it has been proved wrong from the above narration; nobody can say that the Prophet of Allah (peace be upon him) had breached the treaty by attacking them. However, the other allegation still remains that the revenge taken was very harsh. But before interpreting this to be very harsh and callous, we should understand a few issues in this regard.

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<sup>1</sup> *Fath al-Baari*, Vol. 7, p. 281; *Ibn Katheer*, Vol. 8, p. 52.

<sup>2</sup> *Muslim: Kitaab al-Jihad; Futuh al-Buldan*, p. 29.

<sup>3</sup> During the pre-Islamic era, the tribe of Hazrat Sa'd and Banu Quraiza were allies, and in ancient Arabia the bonds of alliance were as strong as blood relations.

1. Keeping in view the frequent treacheries committed by Banu Quraiza and their brethren Banu Nadheer, it was impossible to hope and expect that they would not commit treachery again at a critical moment and juncture, if a new treaty were contracted with them or the old one were renewed.
2. Their forts were contiguous to Madinah, and after such an open treachery there was always a risk that if they were allowed to live so near to Muslim habitats they might bring in the enemies of Muslims surreptitiously and attack them in their very habitats.
3. They could not be deported, because the result of deportation of their brethren, Banu Nadheer, was there for all to see that sitting peacefully in a far-off place, they plotted, planned and made all necessary preparations for war and after gathering sufficient forces mounted an attack on Madinah.
4. In spite of all these considerations, the Prophet of Allah (peace be upon him) did not mete out any punishment to them on his own, but appointed an arbitrator of their choice whose tribe had been their ally for generations.
5. It is the accepted norm of law of arbitration followed in the entire world that when a person is appointed as an arbitrator by mutual consent of the parties, it becomes incumbent upon the parties to honour and act according to whatever judgement he passes.
6. The judgement passed by Hazrat Sa'd bin Mu'az was according to the instructions of the Torah (the Bible);<sup>1</sup> therefore, not a single Jew spoke against it.

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<sup>1</sup> "When you go near a city to fight against it, then proclaim an offer of peace to it. And it shall be that if they accept your offer of peace, and open to you, then all the people who are found in it shall be placed under tribute to you, and serve you. Now if the city will not make peace with you, but would make war against you, then you shall besiege it. And when the Lord your God delivers it into your hands, you shall strike every male in it with the edge of the sword. But the women, the little ones, the livestock, and all that is in the city, all its

Keeping in view the aforesaid circumstances, there should not remain any hesitation to accept that the way in which Banu Quraiza were treated was not only just and humane, but also there was no other way in which they could have been dealt with.

**(iii) Execution of Ka`b bin Ashraf:** Another incident of the Prophet's era which is criticized severely is that the Prophet of Allah (peace be upon him) secretly got killed one of his enemies, Ka`b bin Ashraf. The opponents object that this way of killing was nothing but the same old "*Fatak*" of the pre-Islamic era, and that apart from an act of cowardice it was against the practices and norms of war. However, there were some particular reasons behind this incident too which the opponents have ignored.

This person was from the Jewish tribe of Banu Nadheer and was a partner to that treaty which the Prophet of Allah (peace be upon him) had entered into with his tribe after his migration to Madinah. But he had intense enmity towards Islam and particularly towards the Prophet, and used to lampoon him in his poetry, and write dirty, amatory poems about Muslim women;<sup>1</sup> he also used to excite the infidels of the Quraish against the Prophet of Allah (peace be upon him).<sup>2</sup> When the Prophet of Allah (peace be upon him) was victorious in the Battle of Badr, he was extremely unhappy and depressed, and cried out in extreme rage:

*"By Allah, if Muhammad has really defeated the Quraish, then the belly of the earth is better for us than its back."*

Then he went to Makkah from Madinah and began inciting the Chiefs and people of the Quraish to take revenge against their dead by reciting before them, in an agonizing tone, the elegiac couplets he had written. All these actions were against the terms and conditions of the

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spoil, you shall plunder for yourself; and you shall eat the enemies' plunder which the Lord your God gives you." (The Bible, Deuteronomy, 20:10-14)

<sup>1</sup> *Ibn Atheer*, Vol. 2, p. 53; *Fath al-Baari*, Vol. 7, p. 236.

<sup>2</sup> *Abu Dawood*.

peace treaty which had been entered into between the Muslims and the Jews; he, along with his tribe, had also endorsed the treaty. However, these actions could have been pardoned; but he went beyond these actions and in his intense animosity decided to take the life of the Prophet of Allah (peace be upon him); he made an elaborate plot to assassinate him by deceit. `Allama Ibn Katheer has narrated, on the authority of Abu Maalik, that Ka'b bin Ashraf had planned along with a group of persons to secretly invite the Prophet of Allah (peace be upon him) to his home and kill him. Hence, the following Verse was revealed with regard to this plot:

إِذْ هَمَّ قَوْمٌ أَنْ يَبْسُطُوا إِلَيْكُمْ أَيْدِيَهُمْ فَكَفَّ أَيْدِيَهُمْ عَنْكُمْ ، (المائدة: 11)

*"When certain men formed the design to stretch out their hands against you, but (Allah) held back their hands from you."*

*(The Quran, 5:11)*

Ibn Hajar has also quoted this narration in his book *Fatah al-Baari*, but the chain of narration he has brought in with this narration is weak. However, Yaqoobi, who is a very great historian, writing about Banu Nadheer says very clearly:

*"He had plotted to kill the Prophet of Allah (peace be upon him) with deception."*

All these narrations prove beyond doubt that he had actually plotted to kill the Prophet and this plot, sort of, concluded his long list of crimes, after which his execution became imminent. What should be the punishment for a person other than death, when he frequently breaches his national treaty, plots with the enemies of the Muslims and incites them to wage war against the Muslims, and finally secretly plots to kill the leader and the Prophet of the Muslims? For the crimes of one single person, war could not have been declared against his entire tribe in order to kill him in an open battlefield. His own tribe would not have restrained him because the attitude of the entire tribe was similarly inimical towards Islam and its Prophet. Then,

like other enemies of Islam, he never came out in the open to fight with Muslims; rather he always plotted sitting behind the scenes. Therefore, the only way left open was to finish him off behind the scenes. Hence, the Prophet of Allah (peace be upon him) reluctantly adopted this method and dispatched Muhammad bin Muslimah and got him killed.

From this incident, it is wrong to deduce that assassinating chiefs of the enemies is a permanent feature of the Islamic Law of War. If it were to be so, then the Prophet of Allah (peace be upon him) would have first got killed enemies of Islam like Abu Jahl and Abu Sufiyan, and there was no dearth of such devotees among his Companions who could not have assassinated such enemies one by one. However, in the entire era of the Prophet and his Companions, we do not find any one, except Ka'b bin Ashraf and Abu Raafe',<sup>1</sup> who had been assassinated clandestinely, although these were not the only two persons who were the Prophet's enemies. Hence, this incident itself proves that assassination of enemies clandestinely is not a permanent policy of war in Islam; rather it is allowed only in such circumstances when the enemy does not come out

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<sup>1</sup> In the *Sahih Bukhari*, it has been mentioned this much about Abu Raafe' that: "Abu Raafe' used to torment and annoy the Prophet of Allah (peace be upon him) and used to help his enemies against him." But Ibn 'Aayed has reported from 'Arwah that: "He had helped Ghatfan and other pagans with lots of money in the war against the Prophet of Allah (peace be upon him)," (*Fatah al-Baari*, Vol. 7, p. 240). In addition to this, *Tabari* has added that: "He had raised forces to fight against the Prophet of Allah (peace be upon him) in the Battle of Ahzaab" (Vol. 3, p. 7). Ibn Sa'd has written in *Tabaqaat* that: "He had gathered a great assemblage from Ghatfan and other Pagans of Arabia to fight against the Prophet of Allah (peace be upon him)," (Vo. 2, p. 66). Ibn Atheer has written that: "He used to help Ka'b bin Ashraf against the Prophet of Allah (peace be upon him)," (Vol. 2, p. 112, European Edition). Along with these narrations, it has also been proved that, like Ka'b bin Ashraf, he too never came out in the open to fight and used to remain in the background and help the enemies of Islam and the Prophet with money and armed forces to wage war against the Muslims.

in the open and plots and plans his moves remaining in the background.

**(iv) Deportation of Jews of Khaibar:** The deportation of the Jews of Khaibar during the era of Caliphate is particularly objected to by the opponents of Islam. They say that when the Prophet of Allah (peace be upon him) himself had entered into a peace treaty with the people of Khaibar on the payment of one half of the entire produce and thus they had formally become subjects of the Islamic government, Caliph `Umar had no right to deport them. They ask, by so doing has he not committed treachery and usurped the rights of the Zimmies? Outwardly, this objection seems to be very strong, but history has preserved all those facts pertaining to this incident which destroy the very foundation of this objection.

When Khaibar was conquered, in the beginning, the peace treaty made by the Prophet of Allah (peace be upon him) with the Jews was on the condition that the Prophet of Allah (peace be upon him) would spare the lives of the Jews, and that the Jews would vacate Khaibar and go settle somewhere else.<sup>1</sup> After the peace treaty, when the question of maintenance of the lands arose, the people of Khaibar requested the Prophet that:

*"Please allow us to remain over here and make a deal with us, because we are well-versed with farming and gardening."*

The Prophet of Allah (peace be upon him) accepted their request and made a temporary deal with them, and while writing down the terms and conditions of the deal very clearly mentioned: *اقرکم ما اقرکم الله* ("I shall retain you as long as Allah retains you")<sup>2</sup> meaning that you shall not be given this concession on a permanent basis; rather you would be retained as long as the ordains of Allah and our

<sup>1</sup> *Futuh al-Buldan*, p. 29, 38; *Ibn Hisham*, p. 779; *Ibn Sa'd*, Vol. 2, p. 79-80.

<sup>2</sup> *Bukhari; Futuh al-Buldan*, p. 29.



national interests permit and when your behaviour and attitude become unreasonable, we shall have the liberty to implement the terms and conditions of the peace treaty and deport you. Explaining this sentence, Ibn Hajar says:

*"The meaning of the sentence "as long as Allah retains you" uttered by the Prophet of Allah (peace be upon him) was that as long as Allah has destined you to remain over here, we shall allow you to stay, and when we want to deport you from here we shall deport you, and such action (of deportation) itself shall be the proof that you have been destined by Allah for deportation."*<sup>1</sup>

Abu Dawood in another narration has more clearly mentioned:

*"The Prophet of Allah (peace be upon him) had made a deal with them on the condition that whenever we want we would deport them."*<sup>2</sup>

From the above, it is quite evident that there was no deal or agreement with them according to which their deportation could be called treachery or breach of contract; rather, on the contrary, the original peace treaty demanded their deportation. As regards the question, on what basis the temporary deal of payment of one-half of agricultural produce as tribute was cancelled, the following incidents should be kept in view in order to investigate the matter and reach a proper conclusion.

1. Only a few days had passed to the peace treaty when one of their women invited the Prophet of Allah (peace be upon him) for a banquet and mixed poison in his food; when an investigation was carried out, the woman herself admitted to the crime, and involvement of other Jews in the plot was also established and proved.<sup>3</sup>

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<sup>1</sup> *Fath al-Baari*, Vol. 5, p. 207.

<sup>2</sup> *Abu Dawood*.

<sup>3</sup> This incident has been mentioned in many places in *Sahih Bukhari*; details can be found in the narration pertaining to the Battle of Khaibar and also in the chapter pertaining to medicines.

2. In the era of the Prophet itself, they killed one of his Companions, Hazrat `Abdullah bin Sahal bin Zain Ansaari, and dumped his body by the side of a canal.<sup>1</sup>
3. During the era of Caliph Umar, they openly rebelled and caught hold of Hazrat `Abdullah bin Umar while he was asleep and threw him from the upper-storey fracturing his hands.<sup>2</sup>

The first two incidents were caused by a few particular persons, and therefore, common people were not held responsible for them. But the third incident was committed openly in full public view, and the inimical attitude of the entire population was quite evident. Therefore, while presenting this issue in the council of the Companions, Caliph `Umar spoke to say:

*"The Prophet of Allah (peace be upon him) had made a deal with the Jews of Khaibar in respect of their wealth and had said that: 'We shall retain you as long as Allah retains you.' Now, `Abdullah bin `Umar had gone there to pay a visit to his estate; he was attacked in the night and his hands and limbs have been fractured. In this country, we do not have any enemies left except them, and they are the enemies who have remained over, and we suspect them. Therefore, it is my opinion that they should all be deported."*<sup>3</sup>

The council unanimously agreed with Hazrat `Umar's opinion and it was decided to deport the Jews. But they were not deported like criminals without payment of any compensation for their seized wealth and properties; they were fully compensated from the Islamic Treasury for the goods and properties left behind by them. For their onward journey, they were not only provided with camels along

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<sup>1</sup> *Usud al-Ghaaba*, Vol. 3, p. 179.

<sup>2</sup> *Futuh al-Buldan*, p. 31; *Ibn Hishaam*, p. 780.

<sup>3</sup> *Bukhari, Kitaab al-Shuroot*.

with their saddles, but even the ropes to tie the saddles were also provided by the government.<sup>1</sup>

There is no doubt that in some of the narrations, the reason for the deportation has also been mentioned that when Hazrat `Umar heard a Tradition of the Prophet of Allah (peace be upon him) which said: "Two religions should not be allowed to coexist in the Arabian Peninsula," he got it investigated and when he found it to be true he decided to deport the Jews. Balazuri has quoted this narration by the chain of Ibn Shehaab,<sup>2</sup> and Imam Zohri has quoted it by the chain of `Abdullah bin `Atbah.<sup>3</sup> However, the objective of this Tradition is not that all non-Muslim people should be deported from Arabian Peninsula without any fault or reason. Imam Zohri himself has explained in his narration that when the authenticity of the Tradition was established, Hazrat `Umar got an announcement made:

*"Whoever amongst the followers of both the Books (i.e. the Old Testament and the New Testament) has any treaty should bring it forward so that it is implemented."*

It is quite evident that if the objective of the aforesaid Tradition was that all non-Muslims should be deported from the Arabian Peninsula, then Hazrat `Umar would not have got the aforesaid announcement made; rather he would have deported all non-Muslims irrespective of there being a treaty with them or not. When he did not do that, but rather asked them to produce any treaties they had in order to implement them, it meant that the objective of the aforesaid Tradition was not absolute deportation but was setting up of a general policy which was to be implemented taking into consideration other circumstances and situations. Hence, there is no reason to construe that a Zimmi community was deported just because it was not desirable to allow coexistence of two religions in the

<sup>1</sup> Bukhari, *Kitaab al-Shuroot*...

<sup>2</sup> *Futuh al-Buldan*, p. 34.

<sup>3</sup> *Fath al-Baari*, Vol. 5, p. 207.

Arabian Peninsula; rather it is more likely that when Hazrat `Umar wanted to deport the Jews of Khaibar because of their continued treachery and transgressions, he might have been reluctant to deport a Zimmi community and might have been in search of a legal basis to do so, during which time he might have got the aforesaid Tradition and after fully getting satisfied as regards to its authenticity, might have decided to act upon his decision. Later on, the narrators of the incident, according to their natural inclinations, might have construed it to be two different incidents and began describing it under two different narrations.

(v) *Deportation of the People of Najran:* The other incident of the Caliphate which has been more severely criticized than the incident of Khaibar is the deportation of the Christians of Najran. The Jews of Khaibar had been conquered by military force and initially peace was offered to them on the condition of their deportation; hence the opponents could not get sufficient grounds to raise any serious objections to it. But, the people of Najran had accepted the subjugation on their own and had entered into a peace treaty with the Prophet of Allah (peace be upon him) on payment of Jiziya, and hence their deportation, according to the opponents of Islam, was an outright breach of the treaty; they stress on the point that the peace and quarter granted in the treaty was unconditional and that Hazrat `Umar unlawfully annulled it. However, an investigation of the incident renders this claim worthless.

In the treaty contracted by the Prophet of Allah (peace be upon him) with the people of Najran, the quarter granted to the Christians was on the condition that they would remain under the protection of Allah and safety of his Prophet as long as they remain faithful to the Islamic government and fulfil all their duties and pay all their dues. In the text of the treaty quoted by Balazuri and Imam Abu Yusuf, we find these words:

*"Protection of Allah and the permanent responsibility of Muhammad, the Prophet, are granted to them in respect of whatever is contained in this treaty so long as another ordinance does not come from Allah and they remain loyal and sincere, and perform all their duties regularly and properly."*<sup>1</sup>

Similarly in the treaty that Hazrat Abu Bakr executed in their favour, after assuming Caliphate, he specifically set this condition that:

*"It is incumbent upon them to be loyal and sincere, and perform all their duties properly and regularly."*<sup>2</sup>

According to this treaty, as the Islamic government had pledged to protect them and preserve their old culture, so also it had taken a pledge from the people of Najran that they would remain faithful to the Islamic government; and this kind of pledge every government of the world takes from its subjects. But how far the people of Najran fulfilled their pledge, and how far they fulfilled the condition of *نصحوهم واصلحوهم* ("being loyal, sincere and performing their duties")? History answers this question and says that they had secretly gathered horses and weapons and were fully prepared for an armed rebellion thus endangering the very heart of the Islamic State. Imam Abu Yusuf has very clearly written in his book that:

*"Hazrat `Umar deported them because he feared that they would rebel against the Muslims; they had already collected horses and weapons in their country."*<sup>3</sup>

Just have a look on the map of Arabian Peninsula; you will understand how these preparations of the people of Najran posed serious threats to the Islamic State. On the one side, right on their north was the centre of the Islamic State, Hijaz, and on the other side was the Red Sea on whose shores was the Christian Empire of Abyssinia

<sup>1</sup> *Kitaab al-Khiraaj*, p. 41; *Futuh al-Buldan*, p. 72.

<sup>2</sup> *Kitaab al-Khiraaj*, p. 41

<sup>3</sup> *Ibid*, p. 42.

(Ethiopia). If the people of Najran had attacked Hijaz after completing their preparations and simultaneously invited their co-religionists from Abyssinia to join them in their attack and thus fulfil the ambition of their erstwhile king Abraha, everyone can very well understand the difficulties that Muslims would have encountered.

Ibn Atheer and Balazuri have stated that because of the peace and tranquility their population increased to 40,000, and a surge in wealth had also started a series of internecine broils; their different groups used to come to Caliph `Umar and complain against one another and every group used to urge deportation of the other group. In the beginning, Hazrat `Umar ignored this mischief, but when it began to gain strength and the centre of the Islamic State itself was getting endangered, finding the circumstances most opportune, he ordered their deportation.<sup>1</sup>

However, these people against whom proof of preparation for rebellion had been established were not deported beyond the borders of the Islamic State; rather they were deported only beyond the borders of the Arabian Peninsula. They were not deprived of "the protection of Allah and the responsibility of Muhammad, the Prophet," but under the same protection and responsibility were resettled in another appropriate place after deporting them from an inappropriate place. The only objective of their deportation from Najran was that they should not occupy a territory between Hijaz and Abyssinia which was politically, militarily and strategically important. Except for the punishment of deportation, no other punishment was given to them. Hence, Caliph `Umar deported them from Najran of Yemen to Najran of Iraq; they were given lands in lieu of their lands; they were exempted from payment of Jiziya for two years; they were provided with all kinds of facilities to travel from Yemen to Iraq, and the government

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<sup>1</sup> *Futuh al-Buldan*, p. 73; *Ibn Atheer*, Vol. 2, p. 112.

officials were ordered to see that they were not put to undue hardship. Imam Abu Yusuf has quoted this ordinance word by word; a few of its sentences are as under:

*"To whichever officer of Syria and Iraq these people approach, he should provide them with cultivable land. Whichever land they cultivate is a gift for them for the sake of Allah and is in lieu of the land that has been taken from them in Yemen; no one should interfere and violate them in respect of such a land... If someone oppresses them, then it is incumbent on every Muslim who is present there to help them, because they are such a community who are under our protection. They are exempted from payment of Jiziya for a period of 24 months."*<sup>1</sup>

Ignoring and forgetting all the above facts, the opponents have just remembered that there was a treaty with the people of Najran and that Caliph `Umar breached the treaty and deported them. But keeping in view all the aforesaid facts, can anyone tell us what action a modern-day "civilized" government would take to maintain and preserve internal peace against a community which adopts an attitude similar to the attitude of the people of Najran and which has a similar political and military position as the people of Najran had?

### 13. Compilation of New Laws of War

A careful study of all that has been stated in this chapter would reveal that the Islamic Sharia (Statute/Canonical Law) has not left any of the practical aspects of war without regulating it by a strong law. It has forbidden all the savage modes of war which were current in the world; has formulated new and civilized laws in respect of war and its adjuncts; if at all it has retained, in a changed form, some of the old modes in deference to the spirit of the time it created such a flexibility of reformation

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<sup>1</sup> *Kitaab al-Khiraaj*, p. 41.

in them that with the changed circumstances and advancement of the times and human intellect they could get reformed on their own. Similarly, it formulated some new fundamental codes and principles with such inherent qualities that new and useful subsidiary laws can be derived from them as per the needs of every age and situation. Along with this, the Prophet of Allah and his Companions themselves have left behind practical examples in this regard which fully exemplify the spirit of Islamic Sharia/Law, and keeping in view this spirit, we can easily find out the best course of action that Islam would like us to adopt in a given situation. In the earlier ages of Islam, the Islamic Jurists had compiled a complete code of laws of war which was in force for centuries in the Islamic states.

But the laws of war of that era are not sufficient in today's changed situations; many of the subsidiary laws that had been derived at that era are now useless. Many new situations have cropped up due to the modern-day methods of war-fare and due to the social and cultural changes, for which subsidiary laws are not found in the old books of Islamic jurisprudence. Therefore, now it is necessary that we turn back to the original source, i.e. the Holy Quran and the Traditions of the Prophet, and based on the fundamentals and their tributaries found in them, compile a new code of law according to our modern-day needs and requirements. The method for the compilation of this new code of law should be that in issues where details of subsidiary laws are available in the Quran and the Traditions should be retained, and in issues where only fundamentals and principles are available and no subsidiary laws are available, we should derive new subsidiary laws keeping in view the spirit of the Islamic Law and the opinions and interpretations of Islamic scholars and jurists of the past. In the issues where the Islamic Law has given us the right to adopt and discard, we should discard (not forbid or make unlawful) those things which the present-



day world has discarded. In this task, we should neither be entirely dependent on the books written by the jurists of earlier ages nor should we completely ignore them. The efforts that these eminent scholars had put in are neither just useless that we should dump them as garbage nor are they permanent like the fundamentals of the Islamic Law that we cannot change them according to the needs of our times. In between these two extremes, we should adopt a middle path and that is that amongst their legists we should retain only those which are in accordance with the spirit of the present era, and those which have become old with the passage of time should be discarded and new subsidiary laws should be derived directly from the fundamentals of the Islamic Law.

For example, in the Quran and the Traditions, we find only fundamental principles about the rights and duties and other issues pertaining to the prisoners of war, the wounded, the sick and the non-aligned, and do not find any details about their subdivisions. This lack of details and just remaining content with description of only the fundamentals means that the Islamic Law has given the right to the Muslims of every era to formulate the subsidiary laws according to the requirements of their time. Therefore, it is not necessary for us to refer to the books of jurisprudence written in the fifth or sixth century A.H. to find out about these subsidiary laws and adopt fully whatever details we find therein. Rather, our work is to keep in view the present-day situations and derive such subsidiary laws from the fundamentals of the Islamic Law which are more suitable to the prevalent situations. Further, the Islamic Law gives us the right to adopt those modern-day current laws to the extent that they are not against the spirit of Islamic Law, and be a part of all those treaties and agreements which have been forged between present-day states keeping in view the rulings of the Islamic Law.

In view of this, I have quoted in this chapter from the original source of the Islamic Law, i.e. the Holy Quran and the Traditions of the Prophet, all those fundamentals and subsidiary laws which can form the material for compilation of a complete code of law. Along with this, I have also quoted the opinions and interpretations of eminent scholars and jurists of the past which were found to be in accordance with the spirit of modern era, and have also pointed out and explained the exceptions which, with their outward appearance, could have created doubts in the minds of the people and led them to believe in the inconsistencies of the Islamic law. Now keeping in view all this information, it is the task of our modern-day Islamic jurists to compile a new book of Islamic jurisprudence on Jihad.

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## **CHAPTER VI**

### **CONCEPT OF WAR IN OTHER RELIGIONS**

When the excellence and flaw of a thing is to be investigated, the first step to take is to find out what kind of a thing it is, and the next step is to find out its standing among other similar things. When it is proved that it is better in both these aspects, then alone it can be issued a certificate of approval. Adopting this system of investigation, we have already completed the investigation as far as the first stage is concerned. Now the second stage has remained over where, first of all, we will compare Islam with other religions and then with present-day laws and investigate how Islam compares with them with regard to the issue of war. If the other religions and laws consider war as lawful, we will find out what are their objectives and methods of war, and whether they are better or worse than Islam? And if they consider war unlawful, we will find out whether their teachings or Islam's teachings in this respect are in accordance with the human nature?

### **PRINCIPLES OF COMPARISON OF RELIGIONS**

Comparative study of religions is, in fact, a very difficult task. Man can seldom do justice to those beliefs and opinions which are opposed to the beliefs and opinions held by him. This weakness is quite common in human nature; but particularly it has turned into the worst kind of bias and narrow-mindedness in the religious groups. When the followers of a particular religion criticize or comment on other religions, they are always in search of their dark aspects and as far as their bright aspects are concerned, either they never try to look for them or hide them deliberately if at all they find them out. Their objective of

religious criticism is not search for truth, but only to prove their opinion right which they had formed long before taking up the research or investigation. By this method all the benefits of religious comparison vanish, and even the religion for whose benefit this wrongful method is adopted does not get benefitted. Even if the objective of the comparative study is investigation of the truth and nothing but due demonstration of the truth, the correct way of achieving this objective is not to prove the superiority of one's religion by forming an adverse opinion about other religions beforehand and study them with the only intention of covering up their virtues and revealing their flaws. Proving superiority of any religion by this kind of dishonesty and cheating is indeed neither proof of its superiority, nor any true religion could feel proud of such a success, and nor such a religion could command any respect in the sight of truth and credibility. Even if a person were to believe in its truth by this kind of trickery, such belief would be untrustworthy because its very foundation is wrong.

Avoiding these corrupt practices and taking the argument about comparative study of religions to its logical and correct conclusion, it is very necessary to set out a few guiding principles of comparative study and strictly adhere to them. In our opinion, these guiding principles should be as follows:

1. To prove that a religion is true, it is not necessary to prove other religions to be totally false, nor is it necessary that presence of Truth in one religion means absence of it in the other religion. Truth is a universal reality whose characteristics would remain a part of it wherever they might be. Change in place and situation does not alter their reality and actuality. Presence of Truth in our religion so also in another religion is not a proof of defect in any of the two religions that it should be tried to be concealed willy-nilly; rather it is the proof

that both of them are derived from one common source of truth whose beneficence has been conserved in both the religions. Hence, wherever and in whatever and whichever form the beneficence of Truth is found, it deserves to be appreciated rather than perforce tried to be proved useless by stretching and straining.

2. Any person, who claims that Truth is found nowhere else but only in his religion, not only wrongs his own religion but also the Truth itself. It is a fact that Truth is found, more or less, in every religion. But, when the researchers prefer a particular religion over another religion, it is because that in their view that religion is the perfect manifestation of the complete Truth. Hence, a student of comparative study of religions should not prejudge that except for his favourite religion all other religions are bereft of the Truth; rather he should realize that Truth and Falsehood would come before him in a mixed form, and his task would be that by using his faculty of intellect and power of judgment he should see clearly Truth as the Truth, and Falsehood as the Falsehood and never allow them to mix with one another.
3. In the religious research, care should particularly be taken not to study the works of both the biased opponents and the fanatic adherents of any religion. At the beginning of a research, a researcher cannot reach a correct conclusion by reading the writings of these kinds of people; rather before looking at the real face of the religion a particular type and colour of spectacles gets fixed on his eyes which prevents him from looking at the real colour of that religion. If the research has to reach any correct conclusion, then it would be necessary not to look at any religion as others see it, but rather look at it in what shape and form it presents itself to others. For this purpose, it is necessary to study, as far as possible, the actual sources of every religion and

then decide, with the help of our own intellect, to what extent that religion is true and to what extent it is false. After forming an opinion by this way, there is no harm in studying the opinions and ideas of others, because at that juncture, it would be easier for him to distinguish between the truth and the untruth.

In the coming pages the discussion that will be taken up regarding the issue of war in different religions will be based on the aforesaid three principles and utmost care has been taken, removing all the feelings of support to our own religion, to prove only Truth as the Truth and Falsehood as the Falsehood.

## **THE FOUR GREAT RELIGIONS OF THE WORLD**

In this brief book, it is impossible to analyze the teachings of all the small and great religions of the world. This kind of encompassing and coverage is not easy and, therefore, usually this kind of discussions about comparative study of religions is confined to those religions which are amongst the greatest religions of the world because of their greatness and large number of followers. Hence, following this principle, we would also confine our discussions to the four great religions of the world, viz. Hinduism, Buddhism, Judaism, and Christianity.

With regard to the issue of war, these four religions are divided into two groups. One group is that which declares war lawful; it comprises of Hinduism and Judaism. The second group is that which declares war unlawful; it includes Buddhism and Christianity. We will begin our discussion with the first group.

### **I. HINDUISM**

In discussing this religion, the foremost difficulty a person faces is to decide which things are to be considered as part of Hinduism. Hinduism is not a religion in the sense that a religion is usually considered to be a religion. It is

essential for a religion to have a central belief on which it has been founded. But in Hinduism we do not find any such central and basic belief. Different groups and classes of society with different beliefs, standards, and rituals of worship and with different religious books are found in it, and all of them are called Hindus.<sup>1</sup> Therefore, when we try to get an edict from Hinduism on a particular issue, we find it very difficult to decide to which of its different religious groups we should address our queries.

However, this difficulty has been made manageable by the modern religious inclination of the Hindus. Although there still remain differences of religious schools of thought and religious systems, but the inclination of the Hindus to centralize their religious faith towards certain religious books is increasing and a majority of them have accepted these books as the foundation and basis of their religion. These books are of three kinds: the four Vedas; the Gita; and Manu's Smriti. Whatever will be written here about Hinduism will be based on these three kinds of books.

### 1. Three Periods of Hinduism

Historically the aforesaid three kinds of books pertain to three different periods and present three different aspects of Hinduism about the issue of war.

The Vedas pertain to that period when the Aryans, coming out of West Asia, had invaded India and were at

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<sup>1</sup> Researchers have faced great difficulty in defining Hinduism. Guru Prasad Sen defines Hinduism as: "that what the Hindus or the major portion of them in a Hindu community do is Hinduism," (*An Introduction to the Study of Hinduism*, p. 9). Alfred Lyall defines Hinduism as: "the collection of rites, worships, beliefs, traditions, and mythologies that are sanctioned by the sacred books and ordinances of the Brahmanas and propagated Brahmanic teaching," (*Religious Systems of the World*, p. 114). Some other says: "All those inhabitants of India who do not belong to Islam, Jainism, Buddhism, Christianity, Zoroastrianism, Judaism, or any other religion of the world, and whose system of worship encompasses from unity of god to idol worship, and whose religious teachings have been written exclusively in Sanskrit are Hindus," (*Census Report, Baroda, 1901*, p.120).

war with its natural inhabitants who were quite different from them in colour, race and religion. The poems of the Vedas shed sufficient light on the questions about the feelings of these invaders against their alien enemies; how did they look upon them; what was the basis of their enmity; what were the objectives of the war against them; and how did they want to deal with them?

Gita is the book of that period when Aryans had completely established their domination over North India, and a struggle was taking place between the two powerful families of the Aryans for ascendancy and eminence. This book gives us the Hindu philosophical thoughts of a religious leader like Sri Krishna concerning war.

Manu Smriti is the compilation of religious, political and social laws when India had been completely turned into an Aryan civilization, the power of the non-Aryans had been completely annihilated, and the Aryan civilization was in ascendancy. In this book, we get details about the laws and regulations of war and the rights and duties of the conquered people.

We will keep this order in our future discussions.

## 2. Teachings of Vedas about War

Vedas are four: the oldest among them is *Rigveda*, then it is *Yajurveda*, then *Samaveda*, and the fourth is *Atharvaveda*. It is very difficult to compile their mantras according to subjects, because quite often many subjects are dealt with in each mantra. Therefore, ignoring different subjects, we will quote separately from every book those mantras which pertain to any one aspect of war.<sup>1</sup>

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<sup>1</sup> I have before me the English translations of Vedas rendered by Mr. Ralph T.H. Griffith. Also I have kept in view the translations of Mr. Max Muller. I am very sorry that because of ignorance of Sanskrit, I am unable to read and comprehend these books in their original language and because of the bitter experience we have of the European translators with regard to the translations of the Holy Quran, we cannot rely much on the European translators with regard to the translations of the Hindu religious books too. Therefore, the Vedic



### 3. Rig Veda

The mantras in which the subject of war has been discussed are as under:<sup>1</sup>

*"Indra, bring wealth that gives delight, the victor's ever-conquering wealth, most excellent, to be our aid; by means of which we may repel our foes in battle hand to hand, by thee assisted with the car." (1:8:1-2)*

*"O Agni, radiant One, to whom the holy oil is poured, burn up our enemies whom fiends protect." (1:12:5)*

*"Through their protection may we gain great store of wealth, and heap it up enough and still to spare, be ours. O Indra-Varuṇa, on you for wealth in many a form I call; still keep ye us victorious." (1:17:6-7)*

*"Slay each reviler, and destroy him who in secret injures us: Do thou, O Indra, give us hope of beauteous horses and of kine in thousands, O most wealthy One." (1:29:7)*

*"Discern thou well Āryas and Dasyus;<sup>2</sup> punishing the lawless give them up to him whose grass is strewn (for the offerings of the gods)." (1:51:8)*

scholars are requested to go through with a critical view whatever I am writing on the basis of the translations of the Vedic Shlokas, and if mistakes were to be found either in the translation or if I have drawn a wrong conclusion based on such wrong translations, I may kindly be intimated about it.

<sup>1</sup> The mantras quoted are as translated by Mr. Griffith; the pattern of numbering adopted is as follows: The first number indicates the Book No., the second indicates Hymn No., and the number or numbers following Hymn No. indicates Verse No. [Translator]

<sup>2</sup> In his book *"Indo-Aryans"* (Vol. I, p. 210), Dr. Rajendralala Mitra has tried to prove that Dasyus were the outcast tribes of the Aryans. He says: "the term Dasyu itself is Aryan and indicates an Aryan, and not a non-Aryan, race. According to Manu, 'all those tribes of men who sprung from the mouth, the arm, the thigh, and the foot of Brahama, but who became outcasts by having neglected their duties are called Dasyus or plunderers.' (Manu, X, 45)" But a study of Vedas itself gives the impression that the Aryan invaders used this word to indicate the indigenous inhabitants of India with whom they were at war. This is not my impression alone; rather the others who have studied Vedas also have similar impression. Mr. Ralph T.H. Griffith writes:

"The name of the Dasyus was also sometimes given to the wild indigenous who opposed the immigration of the Aryans and, later, to all people who did not follow the Vedic rituals or observe the

*"Well pleased with these bright flames and with these Soma drops, take thou away our poverty with seeds and kine, with Indra scattering the Dasyu through these drops, freed from their hate may we obtain abundant food. Let us obtain, O Indra, plenteous wealth and food, with strength exceeding glorious, shining to the sky; may we obtain ... the strength of heroes, special source of cattle, rich in seeds." (1:53:4-5)*

*"So give us, Indra, bliss-increasing glory, give us great sway and strength that conquers people. Preserve our wealthy patrons, save our princes; vouchsafe us wealth and food with noble offspring." (1:54:11)*

*"Him, Angiras, thou Son of Strength, all men call happy in his God, his offerings, and his sacred grass. Hitherward shalt thou bring these Gods to our laudation and to taste. These offered gifts, fair shining One. When, Agni, on thine embassy thou goest not a sound is heard of steed or straining of thy car. Aided by thee uninjured, strong, one after other, goes he forth; Agni, the offerer forward waters. May Indra evermore be our protector, and unimperilled may we win the booty." (1:74:18-19)*

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essential Brahminical ceremonies." (*The Hymns of Atharva Veda*, Vol.1, p.9)

Prof. Maurice Bloomfield writes: "At an unknown date then, as we have to confess reluctantly, Aryan tribes or clans began to migrate from the Iranian highlands to the north of the Hindu-Kush Mountains into the north-west of India, the plains of the River Indus and its tributaries, the Punjab, or the land of the five streams. The River Ganges, so essential for a picture of India in historical times, and even bound up with all Western poetic fancies about India, is scarcely mentioned in the Rig-Veda. This same text is full of allusions to the struggles of the fair-skinned Arya with the dark-skinned aborigines, the Dasyus." (*The Religion of the Veda*, p. 23-24, London, 1908)

Prof. Arthur Anthony Macdonell says: "The term Dasa or Dasyu, properly the designation of the dark aborigines of India contrasted with their fair Aryan conquerors, is frequently used in the sense of demons or fiends." (*A History of Sanskrit Literature*, p. 113, London, 1900)

*"The mighty Thunderer with his fair-complexioned<sup>1</sup> friends won the land, the sunlight, and the waters. May Indra evermore be our protector, and unimperilled may we win the booty. (1:100:18-19)*

*"For Puru thou hast shattered, Indra ninety forts, for Divodasa thy boon servant with thy bolt, O Dancer, for thy worshipper. For Atithigva he, the Strong, brought Sambara from the mountaindown, distributing the mighty treasures with his strength, parting all treasures with his strength. Indra in battle help his Aryan worshipper, he who hath hundred helps at hand in every fray, in frays that win the light of heaven." (1:130:7-8)*

*"Helped, Indra Maghavan, by thee in war of old, may we subdue in fight the men who strive with us, conquer the men who war with us. This day that now is close at hand bless him who pours the Soma juice. In this our sacrifice may we divide the spoil, showing our strength, the spoil of war." (1:132:1)*

*"When with wise plan the Hero leads the people forth, they conquer in the ordered battle, seeking fame, press, eager, onward seeking fame." (1:132:5)*

*"Indra, mayst thou be ours in all occasions, protector of the men, most gentle-hearted, giving us victory over all our rivals. May we find strengthening food in full abundance." (1:174:10)*

*"Thou, Hero, winner of the spoil, urgest to speed the car of man, burn, like a vessel with the flame, the lawless Dasyu, Conqueror!" (1:175:3)*

*"Aided by thee, O Maghavan, O Indra, may we subdue our foes who count them mighty. Be our protector, strengthen and increase us. May we find strengthening food in full abundance." (1:178:5)*

*"May we gain wealth, subduing with thy succour and with the Arya, all our foes, the Dasyus." (2:11:19)*

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<sup>1</sup> "Fair-complexioned" people meant those white-coloured Aryan tribes who had invaded India after migrating from Transoxiana (Central Asia); against them were the black-coloured indigenous inhabitants of India. (Refer Griffith's translation of Rig Veda, Vol.1, p. 130)

*"Perform, O Hero, with our valiant heroes the deeds heroic which thou hast to finish. Long have they been inflated with presumption: slay them, and bring us hither their possessions." (2:30:10)*

*"Thou, because many lauds are thine, O Indra, wast active warring in the fields of cattle." (5:33:4)*

*"He gained possession of the Sun and Horses, Indra obtained the Cow who feedeth many. Treasure of gold he won; he smote the Dasyus, and gave protection to the Aryan colour." (3:34:9)*

*"Agni, whoever secretly attacks us, the neighbour who harms us, thou with Mitra's might, burn him with thine own Steers for ever youthful, burning with burning heat, thou fiercest burner... Help us, that we may gain this wish, O Agni, gain riches, Wealthy One, with store of heroes." (6:5:4, 7)*

*"Indra, bestow on us the power heroic skilled and exceeding strong, that wins the booty, wherewith, by thine assistance, we may conquer our foes in battle, be they kin or stranger. Through these thy friendships, God invoked of many! May we be victors over every foeman, slaying both kinds of foe, may we, O Hero, be happy, helped by thee, with ample riches." (6:19:8, 13)*

*"Give us wealth, Indra, that with might, as heaven overtops the earth, overcomes our foes in battle, wealth that brings thousands and that wins the corn-lands, wealth, Son of Strength, that vanquishes the foeman." (6:20:1)*

*"Gods, we have reached a country void of pastures; the land, though spacious, was too small to hold us. Brhaspati, provide in war for cattle; find a path, Indra, for this faithful singer. Day after day far from their seat he drove them, alike, from place to place, those darksome creatures. The Hero slew the meanly-huckstering Dasas, Varcin and Shambara, where the waters gather." (6:47:20-21)*

*"May we, O Indra, gain by thy new favour: so Parus laud thee, with their sacrifices. That thou hast wrecked seven*

*autumn forts, their shelter, slain Dāsa<sup>1</sup> tribes and aided Purukutsa.” (6:20:10)*

<sup>1</sup> The word “Dasa” like the word “Dasyu” is also used to describe those native races that were fighting the Aryan invaders. However, a few scholars have tried to establish that Das and Dasyu mean fiendish spirits; but this assertion lacks credible proof. Mr. Ralph T.H. Griffith says:

“Dasa: a general term applied in the Veda to certain evil beings or demons hostile to Indra and to men. It means also, a savage, a barbarian, as here, one of the original inhabitants of the country opposed to an Aryan immigrant.” (*The Hymns of Atharva Veda*, Vol.1, p.174)

In Volume II, he further explains the meaning of “*Dasam Varnam*” as:

“*Dasam varnam*; literally, the Dasa, demon or hostile, colour; the dusky savage inhabitants whom the Aryan immigrants classed with demons.” (Vol. II, p. 350)

The usage of this word is similar to the Muslim usage of the word Satan, which is generally used to refer to the Jinn. But when the Muslims use the word Satans to refer to those people whom they consider evil, from the context itself it could be gathered that they are referring to the human beings and not to the Jinns. On such occasions, to say that there the actual meaning of Satans is Satan Jinns would be a wrong and misplaced interpretation.

Similarly, there would not be any room for doubt in fixing the connotation of Dasa and Dasyu when we find clear evidences in the Rig Veda of them being referred to as human beings. It describes them as irreligious – *a-vrata* (people who do not obey the ordinances of the gods), rite-less, void of sense, inhuman, and keeping alien laws (*Rig Veda*, 10:22:8), possessing vast number of cattle and animals, and forts which the Aryans conquer. Another adjective used for them is *mridhra-vacha*. This can be interpreted in different ways – as referring to their speech being indistinct, unclear, soft, unintelligible, uncouth, hostile, scornful, or abusive... In three other places, the term *krishna-tvach* or *asikni-tvach* is applied to the Dasyus. This can be interpreted literally as ‘dark skinned’ or as a figurative use of darkness. In one passage, Dasas are described as *anasa*. Whether this means nose-less (i.e. flat-nosed), faceless (in some metaphorical sense) or mouth-less (i.e. whose speech is incomprehensible) is uncertain. This last epithet, *anasa*, is more important: it doubtless means “nose-less”, and is a clear indication that the people to which it is applied were of the Dravidian type as we know it at the present day.

In the presence of these proofs, it is quite futile to argue that these Dasas and Dasyus were not human beings but demons and fiendish spirits.

*"With Bow let us win kine, with Bow the battle, with Bow be victors in our hot encounters. The Bow brings grief and sorrow to the foeman: armed with the Bow may we subdue all regions."* (6:75:2 & White Yajur Veda, Book 29:39)

*"O Indra, where the ground is hard to traverse, smite down our foes, the mortals who assail us, keep far from us the curse of the reviler: bring us accumulated store of treasures. God of the fair helm, give Sudas a hundred succours, a thousand blessings, and they bounty. Strike down the weapon of our mortal foeman: bestow upon us splendid fame and riches. Here are the Kutsas supplicating Indra for might, the Lord of Bays for God-sent conquest. Make our foes ever easy to be vanquished: may we, victorious, win the spoil, O Hero. With precious things, O Indra, thus content us: may we attain to thine exalted favour. Send our chiefs plenteous food with hero children. Preserve us evermore, ye Gods, with blessings."* (7:25:2,3,5,6)

*"Drive thou away our enemies, O Maghavan: make riches easy to be won. Be thou our good Protector in the strife for spoil: Cherisher of our friends be thou."* (7:32:25)

*"Hero, may we, with thee for Friend, withstand the man who pants against us in his wrath, in fight with people rich in kine."* (8:21:11)

*"Tear thou asunder, as of old, like tangles of a creeping plant, demolish thou the Dasa's might. May we with Indra's help divide the treasure he hath gathered up."* (8:40:6)

*"O Agni, God, the people sing reverent praise to thee for strength: with terrors trouble thou the foe. Will thou not, Agni, lend us aid in winning cattle, winning wealth? Maker of room, make room for us."* (8:64:10-11)

*"Thy right hand have we grasped in ours, O Indra, longing for treasure, Treasure-Lord of treasures! Because we know thee, Hero, Lord of cattle: vouchsafe us mighty and resplendent riches. Wealth, with good Brahmins, Indra! God-attended, high, wide, and deep arid based on broad foundations, strong with famed Rishis, conquering our foemen: vouchsafe us mighty and resplendent riches. Victorious, winning strength, with hero sages, confirmed in*

*power, most useful, wealth-attracting, true, Indra! Crushing forts and slaying Dasyus: vouchsafe us mighty and resplendent riches."* (10:47:1,3,4)

*"Around us is the Dasyu, rite-less, void of sense, inhuman, keeping alien laws. Baffle, thou Slayer of the foe, the weapon which this Dasa wields."* (10:22:8)

*"Come hither, Manyu, mightier than the mighty; chase, with thy fervour for ally, our foremen. Slayer of foes, of Vrtra, and of Dasyu, bring thou to us all kinds of wealth and treasure."* (10:83:3)

*"Flashing like fire, be thou, O conquering Manyu, invoked, O Victor, as our army's leader. Slay thou our foes, distribute their possessions: show forth thy vigour, scatter those who hate us. O Manyu, overcome thou our assailants – breaking, slaying, crushing down the foemen."* (10:84:2,3)

*"Fight, Warrior strong in truth, fight thou the battle: give us our share of undivided riches."* (10:112:10)

*"Make me a bull among my peers, make me my rivals, conqueror: Make me the slayer of my foes, a sovereign ruler, lord of kine."* (10:166:1)

#### 4. Yajur Veda

In the White Yajur Veda the following Mantras are found concerning war:<sup>1</sup>

*"Agni, subdue opposing bands and drive our enemies away. Invincible, slay godless foes; give splendour to the worshipper."* (9:37)

*"Pathya the Bull, too, kindled thee the Dasyus' most destructive foe, winner of spoil in every fight."* (11:34)

*"Him who would seek to injure us, the man who looks on us with hate, turn thou to ashes, and the man who slanders and would injure us."* (11:80)

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<sup>1</sup> The mantras quoted are as translated by Mr. Griffith; the pattern of numbering adopted is as follows: The first number indicates the Book No. and the second indicates Verse No. [Translator]

*"Rise up, O Agni, spread thee out before us, burn down our foes, thou who hast sharpened arrows. Him, blazing Agni! Who hath worked us mischief, consume thou utterly like dried-up stubble. Rise, Agni, drive off those who fight against us: make manifest thine own celestial vigour."* (13:12,13)

*"Biting animals are his weapon, homicide his missile weapon; to them be homage: may they protect us, may they have mercy upon us. In their jaws we place the man whom we hate and who hates us."* (15:15)

*"Conspicuous by thy strength, firm, foremost fighter, mighty and fierce, victorious, all-subduing, the Son of Conquest, passing men and heroes, kine-winner, mount thy conquering car, O Indra. Cleaver of stalls, kine-winner, armed with thunder, who quells an army and with might destroys it. Follow him, brothers, quit yourselves like heroes, and like this Indra show your zeal and courage. Bewildering the senses of our foemen, seize thou their bodies and depart, O Apva,<sup>1</sup> attack them, set their hearts on fire and burn them: so let our foes abide in utter darkness."* (17:37,38,44)

## 5. Sam Veda

The Mantras concerning war are as under:<sup>2</sup>

*"May Indra give, to aid us wealth handy that rules the skilful ones! Yea, may the Strong give potent wealth. Indra and Wishan will we call for friendship and prosperity, and for the winning of the spoil."* (1:3:1:1:6,9)

*"That we may win us wealth and power we poets, verily, call on thee. In war men call on thee Indra, the heros' Lord,*

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<sup>1</sup> According to Sayana, a female deity who presides over sin; according to Mahidhara, sickness or fear. Apparently Apva was a sort of colic, or dysentery, likely to attack soldiers in the field of battle. (*The Texts of the White Yajurveda*, by Ralph T.H. Griffith, p. 154)

<sup>2</sup> The mantras quoted are as translated by Mr. Griffith; the pattern of numbering adopted is as follows: The first number indicates the Part No., the second number indicates Book No., the third number indicates Chapter No., the fourth number indicates Decade No., and the last number indicates the Verse No. [Translator]



*in the steed's race-course call on thee. With plenty for his true ally the active man will gain the spoil."* (I:3:1:5:2,6)

*"When we have pressed the juice we laud thee, Indra, most valourous, even about to win the booty. Bring us prosperity, and by thy great wisdom, under thine own protection, may we conquer! Thy right hand have we grasped in ours, O Indra, longing, thou very Lord of wealth, for treasures. Because we know thee, hero, Lord of cattle: vouchsafe us mighty and resplendent riches! Men call on Indra in the armed encounter that he may make the hymns they sing decisive. Hero in combat and in love of glory, give us a portion of the stall of cattle!"* (I:4:1:3:4,5,6)

*"Sing, with oblation, praise to him who maketh glad, who with Rijisvan drove the dusky brood<sup>1</sup> away!"* (I:4:2:4:11)

*"Hero, may we, with thee for friend, withstand the man who pants against us in his wrath, in fight with people rich in kine!"* (I:5:1:2:5)

*"Impetuous, bright, have they come forth, unwearied in their speed, like bulls, driving the black skin far away. Soma, thou flowest chasing foes, finder of wisdom and delight, drive thou the godless folk afar!"* (I:6:1:1:5,6)

*"In forefront of the cars, forth goes the hero, the leader, seeking spoil; his host rejoices."* (I:6:1:5:1)

*"Stream on us riches that are craved by hundreds, best at winning spoil, riches, O Indu, thousandfold, most splendid, that surpass the light!"* (I:6:2:1:5)

*"Striving to win, with him we gain all riches from the enemy, yea, all the glories of mankind."* (II:1:1:8:3)

*"Celestial, bounteous giver, girt about with might, rich, mountain-like, in pleasant things, Him swift we seek for foodful booty rich in kine, brought hundredfold and thousandfold."* (II:1:1:13:2)

*"Flow onward with that juice of thine most excellent, that brings delight, slaying the wicked, dear to Gods! Killing the*

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<sup>1</sup> The dusky (black) people referred to in this and the following Mantras are those original inhabitants of the country who are called Dasas and Dasyus in the Vedas.

*foeman and his hate, and daily winning spoil and strength, gainer art thou of steeds and kine.” (II:2:1:15:1,2)*

*“The gifts of Indra from of old, his saving succours never fail, when to his worshippers he gives the boon of booty rich in kine.” (II:2:1:19:3)*

*“Maghavan, help us to a stable full of kine, O Thunderer, with wondrous aids!” (II:2:2:11:2)*

*“O valiant hero, boldly win thousandfold spoil with Kanva’s sons! O active Maghavan, with eager prayer we crave the yellow-hued<sup>1</sup> with store of kine.” (II:2:2:12:3)*

*“True Gods, may we completely gain food and a dwelling place from you. Ye Mitras, may we be your own. Guard us, ye Mitras, with your guards, save us, ye skilled to save; may we subdue the Dasyus by ourselves!” (II:3:2:8:2,3)*

*“Thou, hero, winner of the spoil, urgest to speed the car of man. Burn, like a vessel with the flame, the riteless Dasyu, conqueror!” (II:6:2:20:3)*

*“He, excellent, withholdeth not his bounteous gift of wealth in kine, when he hath listened to our songs. May he with might uncloset for us the cow’s stall, whosoever it be, to which the Dasyu-slayer goes!” (II:8:2:4:2,3)*

*“Together, with one mighty deed, Indra and Agni, ye shook down the ninety forts which Dasas held.” (II:8:2:17:3)*

## 6. Atharva Veda

The topic of war has been dealt with on a wider scale in the Atharva Veda; some of these Mantras are given below:<sup>2</sup>

*“O Agni, bring thou hitherward the Yātudhānas bound and chained, and afterward let Indra tear their heads off with his thunder-bolt.” (1:7:7)*

<sup>1</sup> Here “yellow-hued” means gold; in Arabic too, usually, instead of saying “gold” and “silver”, they are referred to as صفراء (yellow) and بيضاء (white).

<sup>2</sup> The mantras quoted are as translated by Mr. Griffith; the pattern of numbering adopted is as follows: The first number indicates the Book No., the second number indicates the Hymn No., and the third number indicates the Verse No. [Translator]

*"O Soma-drinker, strike and bring the Yātudhānas<sup>1</sup> progeny. Make the confessing sinner's eyes fall from his head, both right and left." (1:8:3)*

*"Come hither, Manyu,<sup>2</sup> mightier than the mighty: smite, with thy fervour, for ally, our foemen. Slayer of foes, of Vritra, and of Dasyu, bring thou to us all kinds of wealth and treasure." (4:32:3)*

*"Endowed with true strength, let the Bull, Agni Vaisvānara, burn them up him who would pain and injure us, him who would treat us as a foe. Him who, unharmed, would injure us, and him who, harmed, would do us harm, I lay between the doubled fangs of Agni, of Vaisvānara." (4:36:1,2)*

*"I conquer the Pisāchas<sup>3</sup> with my power, and take their wealth away. All who would injure us I slay. Let mine intention have success." (4:36:4)*

*"Let Rudra break your necks, O ye Pisāchas, and split your ribs asunder, O Yātudhānas! Your herb of universal power with Yama hath allied itself. Here, Mitra-Varuna, may we dwell safely with splendour; drive the greedy demons backward. Let them not find a surety or a refuge, but torn away go down to death together." (6:32:2,3)*

*"Handless be these our enemies! We enervate their languid limbs. So let us part among ourselves, in hundreds, Indra, all their wealth." (6:66:3)*

*"Gird thou a bullock's hide on these, make those as timid as the deer. Let the foe flee away, and let his kine come hitherward to us." (6:67:3)*

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<sup>1</sup> This word is sometimes used for evil spirits and sometimes for non-Aryan enemies. As Dr. Briddle Keath says, it is very difficult to distinguish where this title is used for non-Aryan enemies and where it is used for the evil spirits. However, sometimes from the context and manner of speech it can be distinguished.

<sup>2</sup> God of Wrath.

<sup>3</sup> Those demons/ fiends that eat raw meat are usually called Pisāchas. But here it is very clear that this word has been used to refer to human enemies.

*"May we with Indra's help divide the gathered treasure of the foe. I, by the law of Varuna, bring down thy pride and wantonness." (7:90:2)*

*"Pierce through the Yātudhānas' skin, O Agni; let the destroying dart with fire consume him. Rend his joint, Jātavedas, let the eater of raw flesh, seeking flesh, tear and destroy him." (8:3:4)*

*"Where now thou seest, O Agni Jātavedas, an Yātudhāna standing still or roaming, or one that flies through the air's mid-region, kindled to fury as an archer pierce him." (8:3:5)*

*"Bending thy shafts through sacrifices, O Agni, dripping thine arrow in the hymn to point them, pierce to the heart therewith the Yātudhānas, and break their arms uplifted to attack thee. Rescue the captives also, Jātavedas, yea, those whom Yātudhānas' spears have captured. Strike down that fiend, blazing before him, Agni! Let spotted carrion-eating kites devour him. Look on the fiend, 'mid men, as Man-Beholder, rend thou 'his three extremities in pieces. Demolish with thy flame his ribs, O Agni, the Yātudhānas' root destroy thou triply." (8:3:6,7,10 & Rig Veda: 10: 87: 4, 5, 10)*

*"Indra and Soma, burn, destroy the demon foe! Send downward, O ye Bulls, those who add gloom to gloom. Annihilate the fools, slay them and burn them up; chase them away from us, pierce the voracious fiends." (8:4:1)*

*"So Goddess Cow, do thou from him, the Brahmans' tyrant, criminal, niggard, blasphemous of the Gods, with hundred-knotted thunderbolt, sharpened and edged with razor-blades, strike off the shoulders and the head. Snatch thou the hair from off his head, and from his body strip the skin; tear out his sinews, cause his flesh to fall in pieces from his frame. Crush thou his bones together, strike and beat the marrow out of him; dislocate all his limbs and joints." (12:5:65-71)*

*"Fort-render, Lord of Wealth, dispelling foemen, Indra with lightnings hath overcome the Dasa. He in his strength, with all-surpassing prowess, through wondrous arts crushed the malignant Dasyus. Treasure of gold he won; he smote the*

*Dasyus and gave protection to the race of Aryas.”  
(20:11:1,6,9)*

### ***An Overview of the Teachings of the Vedas concerning War:***

The Mantras about the war contained in all the four Vedas have been given above word by word, and to demonstrate their true spirit, several Mantras on each subject-matter have been quoted. The points that can be derived out of their study could be briefly as follows:

*Aryans' war was with such a people whose colour, race, religion and country were different from them. Aryans had invaded their country and wanted to settle there in their place.*

1. The Aryans considered these people to be demons, fiends and evil spirits and used to call them with the hateful names of Dasas, Dasyus, Demons, Yātudhānas, Pisāchas, etc. They considered them nonhumans, without any human intellect and very low and debased as against the race of Aryans. Under these concepts, the Aryans refused to give their enemies the status that should have been given to them as fellow human beings.
2. The Aryans did not have any lofty objective of war. They were in search of wealth and treasures. They wanted plenty of cows, bulls, horses and other kinds of cattle. They wanted fertile lands, comfortable dwellings and plentiful stocks of foodstuffs. They were fond of conquering other nations, acquiring fame for bravery and courage amongst compatriots, and rule the other countries with pomp and awe. We could not gather any other better and lofty objectives of war than these in the Vedas.
3. Their war with the non-Aryans was not on a dispute which could be negotiated and reconciled with; rather it was based on a dispute that could not end without the complete annihilation or total surrender of one of the

parties. The Aryans were waging war against these people only because they were non-Aryans and did not worship the Aryan gods. The first reason was simply impossible to be reconciled with as race is not a thing which can be changed at will. As regards the other reason, that also could not be settled as the religion of the Aryans was not a preachifying religion. We do not even get a hint from the Vedas that the Aryans had invited the non-Aryans towards any religious belief or way of life and had placed before them that if the non-Aryans were to accept such and such principles, they would have been integrated and assimilated in their society on an equal footing. Contrary to this, we get clear proofs and evidence from the Vedas that the Aryans considered the non-Aryans contemptible by nature and inherently filthy and, therefore, did not allow the non-Aryans to participate in their religious ceremonies or even touch their sacred books. This is the reason that the war between these two combatants did not end till the original inhabitants of the country did not concede to live like Shudras and migrate towards the forests and mountains.

4. It cannot be clearly understood from the Mantras of the Vedas how the Aryan invaders treated their enemies during the war. But this much can be gathered that they had a strong desire in their hearts to torture and torment them grievously; skinning a man alive, slicing alive pieces of his flesh, burning him alive, mutilating his body parts, getting him torn apart by wild animals, sewing him alive in the skin of an animal, killing his wife and children, were the most desirous punishments that they wanted their gods to mete out to their enemies. You can just imagine the conduct of persons cultivating such desires in their hearts.

## 8. Bhagavad-Gita's Philosophy of War<sup>1</sup>

The reason that the Gita has such a loftiest position in Hinduism is that it is ascribed to a very prominent religious leader, Sri Krishna. According to Mr. Tilak it is "the greatest Granth of the Hindu religion." The lucidity and the eloquency in which this book explains the Hindu philosophy is difficult to find in the entire Sanskrit literature. Although scores of problems relating to Hindu mysticism have been discussed in this book, the main topic of discussion is war, because it has been written to induce and excite a low-spirited soldier to take part in war and to cultivate a fondness of war in his heart which had got disgusted from bloodshed.

It is a very popular episode of Indian epic that when the ancient Aryan civilization was at its peak in India, a discord cropped up in the royal family of Hastinapura on account of a desire for the wealth and the throne of the Kingdom of Hastinapura. Kauravas and Pandavas became rivals in the conflict and many other neighbouring kings and nobles sided each of them. At the outset, many attempts were made for an amicable settlement. But when they proved fruitless, both the parties decided to make the sword their arbitrator and try their luck in the court of battlefield. Accordingly, each party collected its allies and the hostile armies met in the battlefield of Kurukshetra. Sri Krishna was also a king of a neighbouring kingdom and had one of the largest armies and was himself a great

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<sup>1</sup> I have before me two authentic exegeses of Gita with Sanskrit text; one is the very popular exegesis of Mr. Bal Gangadhar Tilak titled *Srimad Bhagavad Gita Rahasya*, first published in Marathi in June 1915, which has been translated into Urdu by Mr. Shanti Narayan Lahori, and the other is the English translation and exegesis of Mr. Kashinath Trimbak Telang (1882) which has been published by Oxford University Press under the Sacred Books of the East (SBE) series. [The translator of this book has before him the English translation of Mr. K.T. Telang and has quoted directly from this English translation instead of retranslating the Urdu quotations given by the Author of this book.]

warrior. Both Duryodhana, the leader of the Kauravas, and Arjuna, the leader of the Pandavas, approached Sri Krishna for his help. Sri Krishna told Arjuna and Duryodhana that he would give his army to one side and himself, unarmed, to the other, and that he himself would not take active part in the war. Arjuna chose Sri Krishna, while Duryodhana chose the army. Later, on the request of Arjuna, who was Sri Krishna's friend and pupil, Sri Krishna agreed to become Arjuna's charioteer. When both the armies were facing one another in the battlefield and Arjuna saw with his own eyes his own friends, brothers and kin ready for bloodshed, his heart began to break and he felt weak and sickened at the prospect of killing his own brothers, kin and friends and wanted to give up the war. At this juncture, Sri Krishna addressed and advised him through a lengthy sermon, which is comprised of philosophy of war and its different aspects; this sermon is known as Bhagavad Gita.<sup>1</sup>

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<sup>1</sup> This was an oral sermon. The author of Mahabharata gives the reason and background for its being written down and its general publication as that when the war was about to start, "Krishna Dvaipāyana, alias Vyāsa, a relative of both parties and endowed with more than human powers, presents himself before Dhṛitarāshṭra, the father of the Kauravas, who is stated to be altogether blind. Vyāsa asks Dhṛitarāshṭra whether it is his wish to look with his own eyes on the course of the battle; and on Dhṛitarāshṭra's expressing his reluctance, Vyāsa deposes one Sañjaya to relate to Dhṛitarāshṭra all the events of the battle, giving to Sañjaya, by means of his own superhuman powers, all necessary aids for performing the duty. Then the battle begins, and after a ten days' struggle, the first great general of the Kauravas, namely Bhīshma, falls. At this point Sañjaya comes up to Dhṛitarāshṭra, and announces to him the sad result, which is of course a great blow to his party. Dhṛitarāshṭra then makes numerous enquiries of Sañjaya regarding the course of the conflict, all of which Sañjaya duly answers. And among his earliest answers is the account of the conversation between Krishna and Arjuna at the commencement of the battle, which constitutes the Bhagavadgītā. After relating to Dhṛitarāshṭra that 'wonderful and holy dialogue,' and after giving an account of what occurred in the intervals of the conversation, Sañjaya proceeds to narrate the actual events of the battle." (p. 3, *The Bhagavadgītā*, by K.T. Telang) From this, it is understood that this sermon of Sri Krishna has not been directly copied from him or from the camp of his associates, but was narrated (most probably by way of inspiration) by a person from the rival camp.



The sermon begins thus:

*And seeing all those kinsmen standing (there), the son of Kuntī was overcome by excessive pity, and spake thus despondingly. Arjuna said:*

*"Seeing these kinsmen, O Krishna, standing (here) desirous to engage in battle, my limbs droop down; my mouth is quite dried up; a tremor comes on my body; and my hairs stand on end; the Gāndīva (bow) slips from my hand; my skin burns intensely. I am unable, too, to stand up; my mind whirls round, as it were; O Kesava, I see adverse omens; and I do not perceive any good (to accrue) after killing (my) kinsmen in the battle. I do not wish for victory, O Krishna, nor sovereignty, nor pleasures: what is sovereignty to us, O Govinda, what enjoyments, and even life? Even those, for whose sake we desire sovereignty, enjoyments, and pleasures, are standing here for battle, abandoning life and wealth-preceptors... These I do not wish to kill, though they kill (me), O destroyer of Madhu, even for the sake of sovereignty over the three worlds, how much less then for this earth(alone)? What joy shall be ours, O Janârdana, after killing Dhritarâshtra's sons? Killing these felons we shall only incur sin. Therefore it is not proper for us to kill our own kinsmen, the sons of Dhritarâshtra. For how, O Mâdhava, shall we be happy after killing our own relatives? Although having their consciences corrupted by avarice, they do not see the evils flowing from the extinction of a family, and the sin in treachery to friends, still, O Janârdana, should not we, who do see the evils flowing from the extinction of a family, learn to refrain from that sin? On the extinction of a family, the eternal rites of families are destroyed. Those rites being destroyed, impiety predominates over the whole family... And O Janârdana, we have heard that men whose family-rites are subverted, must necessarily live in hell. Alas! We are engaged in committing a heinous sin, seeing that we are making efforts for killing our own kinsmen out of greed of the pleasures of sovereignty. If the sons of Dhritarâshtra, weapon in hand, should kill me in battle, me weaponless and not defending (myself) that would be better for me." (Chapter I: 27-45)*

After listening to these virtuous and exquisite thought, Sri Krishna asks with astonishment:

*"How (comes it that) this delusion, O Arjuna, which is discarded by the good, which excludes from heaven, and occasions infamy, has overtaken you in this (place of) peril? Be not effeminate, O son of Prithâ, it is not worthy of you. Cast off this base weakness of heart, and arise, O terror of (your) foes!" (Chapter II:2-3)*

*Arjuna said: "Not killing (my) preceptors – (men) of great glory – it is better to live even on alms in this world. But killing them, though they are avaricious of worldly goods, I should only enjoy blood-tainted enjoyments... Even those, whom having killed, we do not wish to live – even those sons of Dhritarâshtra stand (arrayed) against us." (Chapter II: 5-6)*

It is even more clearly understood from the aforesaid address of Arjuna that it was an internal feud in which two groups of a family wanted to destroy each other in order to acquire a kingdom. The conscience of Arjuna reproached him on this fratricide and avarice of power and wealth, and moved by this censure of his conscience, this noble warrior began to loath the war. But Sri Krishna refuted these thoughts and presented before Arjuna a new philosophy which the narrator of Gita has quoted in the following words:

*"You have grieved for those who deserve no grief, and you talk words of wisdom. Learned men grieve not for the living nor the dead... As, in this body, infancy and youth and old age (come) to the embodied (self), so does the acquisition of another body; a sensible man is not deceived about that." (Chapter II: 11, 13)*

*"These bodies appertaining to the embodied (self) which is eternal, indestructible, and indefinable, are said to be perishable; therefore do engage in battle, O descendant of Bharata! He who thinks it to be the killer and he who thinks it to be killed, both know nothing. It kills not, is not killed. It is not born, nor does it ever die, nor, having existed, does it*

*exist no more. Unborn, everlasting, unchangeable, and primeval, it is not killed when the body is killed. O son of Prithâ, how can that man who knows it thus to be indestructible, everlasting, unborn, and inexhaustible, how and whom can he kill, whom can he cause to be killed? As a man, casting off old clothes, puts on others and new ones, so the embodied (self) casting off old bodies, goes to others and new ones. Weapons do not divide it (into pieces); fire does not burn it, waters do not moisten it; the wind does not dry it up. It is not divisible; it is not combustible; it is not to be moistened; it is not to be dried up. It is everlasting, all-pervading, stable, firm, and eternal. It is said to be unperceived, to be unthinkable, to be unchangeable. Therefore knowing it to be such, you ought not to grieve."* (Chapter II: 18-25)

*"But even if you think that it is constantly born, and constantly dies, still, O you of mighty arms, you ought not to grieve thus. For to one that is born, death is certain; and to one that dies, birth is certain. Therefore about (this) unavoidable thing, you ought not to grieve."* (Chapter II: 26-27)

*"This embodied (self), O descendant of Bharata, within everyone's body is ever indestructible. Therefore, you ought not to grieve for any being."* (Chapter II: 30)

Further on, Sri Krishna has described another philosophy thus:

*"Even if you are the most sinful of all sinful men, you will cross over all trespasses by means of the boat of knowledge alone. As a fire well kindled, O Arjuna, reduces fuel to ashes, so the fire of knowledge reduces all actions to ashes."* (Chapter IV: 36-37)

*"Actions, O Dhanañjaya, do not fetter one who is self-possessed, who has renounced action by devotion, and who has destroyed misgivings by knowledge. Therefore, O descendant of Bharata, destroy, with the sword of knowledge, these misgivings of yours which fill your mind, and which are produced from ignorance. Engage in devotion. Arise!"* (Chapter IV: 41-42)

*"He who is possessed of devotion, whose self is pure, who has restrained his self, and who has controlled his senses, and who identifies his self with every being, is not tainted though he performs (actions)." (Chapter V: 7)*

*"He who, casting off (all) attachment, performs actions, dedicating them to Brahman, is not tainted by sin, as the lotus-leaf (is not tainted) by water." (Chapter V: 10)*

## 9. A Review of Gita's Philosophy of War

The substance of Sri Krishna's teachings, in clear words, is as follows:

1. Since according to the belief of metempsychosis (transmigration of souls), man after his death takes another birth, killing him is not a bad deed; after death he will take birth again and it will not affect his immortal soul.
2. For the soul the nature of the body is that of a cloak for the body. Hence, to cut off the link between the soul and the body is just like tearing off someone's old cloak. To consider this action as murder and its result as death, and then declare it as a sin and a crime, and grieve over it is nothing but just ignorance. In the sight of knowledge and mysticism, one who apparently kills any human being does not actually kills him; rather he takes the cloak of the body from the soul and this is not a thing to regret; it would have been regretful if the killing had resulted in the extinction of the soul too.
3. A thing which is mortal is bound to get destroyed. When man has to face death one day, what is wrong in killing him? What is destined to happen would bound to happen, whether it happens through our hands or through the hands of the nature. When the nature is to kill him tomorrow, what is wrong if we kill him today?
4. One who has acquired the knowledge (*gyan*) is not restrained or regulated by the right and the wrong; every kind of action, becomes lawful for him. Distinction between the right and the wrong is for those

who are not knowledgeable (*gyani*). Hence, acquire the knowledge; even the worst kind of action would not be a sin for you.

The natural result of this teaching should be that there should not remain any value and worth of human life in the heart of any man. Whoever wishes can tear off his brother's body as worn out and discarded clothes, and when questioned present the theory and philosophy of mortality of the body and immortality of the soul and go scot-free. And then again, one who claims to be a *gyani*, for him, leave alone murder, no crime would be a crime for him and no sin would be a sin for him; he can remain blameless and guiltless even after committing every kind of crime.

On the one hand, the Gita has prompted about waging war without any inhibition, and on the other we see that in its entire 18 chapters it has not stated, even in one place, the purpose for which it is prompting man to this bloodshed, and what are those objectives for which it considers lawful shedding human blood and severing the link between the human souls and their bodies. The question of the objective of war is the fundamental question in the issue of war, because anything which can make this dangerous work sacred would be the chastity and nobility of its objective. Otherwise, waging war for an unlawful objective in a most noble and chaste manner would still be unlawful, and in the sight of laws of ethics it would be called nothing but bestiality and brutality. But the Gita has ignored this fundamental question and has not made any endeavour to guide man in this regard.

However, by the style of some of the Shlokas we can guess to some extent Gita's objective of war. In one place Sri Krishna says:

*"Happy those Kshatriyas, O son of Prithâ, who can find such a battle (to fight) – come of itself – an open door to heaven. But if you will not fight this righteous battle, then you will have abandoned your own duty and your fame, and*

*you will incur sin. All beings, too, will tell of your everlasting infamy; and to one who has been honoured, infamy is (a) greater (evil) than death." (Chapter II: 32-34)*  
*"(Warriors who are) masters of great cars will think that you abstained from the battle through fear, and having been highly thought of by them, you will fall down to littleness. Your enemies, too, decrying your power, will speak much about you that should not be spoken. And what, indeed, more lamentable than that? Killed, you will obtain heaven; victorious, you will enjoy the earth. Therefore arise, O son of Kuntî, resolve to (engage in) battle." (Chapter II: 35-37)*  
*"I am death, the destroyer of the worlds, fully developed, and I am now active about the overthrow of the worlds. Even without you, the warriors standing in the adverse hosts, shall all cease to be. Therefore, be up, obtain glory, and vanquishing (your) foes, enjoy a prosperous kingdom. All these have been already killed by me." (Chapter XI: 32-33)*  
*"Therefore you ought not to grieve for any being. Having regard to your own duty also, you ought not to falter, for there is nothing better for a Kshatriya than a righteous battle."<sup>1</sup> (Chapter II: 31)*

These thoughts are not much different from those common thoughts which are always used to prompt and excite soldiers at the time of war, nor are the objectives of war any loftier than those objectives for which men of the world shed the blood of their own kind. The same desire for wealth and riches, the same passion for fame and name, the same craving for power and kingdom, the same fear of

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<sup>1</sup> This is the only phrase that we could find in the Gita which points out towards a better objective of war. But, unfortunately, the purport of "righteous battle" has not been further elaborated in the Gita. If the meaning of "righteous battle" is that if the two factions of a family being claimant to the throne of a kingdom and according to the royal traditions and constitution, only one faction has the right to the throne and fighting and killing each other for that right is the "righteous battle," then the very ethical value of this phrase ends there. This kind of "righteous battles" have always been fought in the royal families and no sensible person has ever considered battling and killing their own brothers and sacrificing the lives of thousands of men for their own royal selfish desires to be a loftier ethical act.

ignominy and infamy, is also prompting men for war here which generally creates the passion for war and the desire for killing and devastation in common people of the world. There is no loftier teaching in it, nor any loftier ethical instructions, nor any better and nobler objective of life; except for animalistic desires and passion, man has not been guided towards any loftier and nobler desire and passion.

### 10. Manu's Laws of War<sup>1</sup>

The Laws of Manu, which is originally called in Sanskrit as Manusmriti or Mānava-Dharmaśāstra, has been the best collection of Hindu religious ordinances, and its ordinances have been in promulgation amongst the Hindu people and the governments. The personality of its author is in much darkness. Its date of authorship is also not determined.<sup>2</sup> But it is an indisputable fact that this is the work of that era of Aryan people when its system of civilization had greatly progressed, and for the organization of the affairs of their numerous kingdoms, a necessity for well-defined and regularized constitutions had arisen. For

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<sup>1</sup> I have before me two English translations of The Laws of Manu. One is translated by Sir William Jones, titled "*Institutes of Hindu Law: or The Ordinances of Manu...*", first published by Fort Williams College, Calcutta, in 1794, and later reprinted in London in 1796; and the other is the translation and exegesis of Dr. Arthur Coke Burnell which was completed, edited and published by Prof. Edward W. Hopkins in 1894. The first mentioned translation was rendered by the order of the Government and is considered to be the most reliable translation even today. [The Translator of this book has quoted from the translation of Sir William Jones.]

<sup>2</sup> Sir William Jones is of the opinion that it most probably has been compiled between 1250 BC and 500 BC. Prof. Monier Monier-Williams has estimated it to be 500 BC. Prof. Schlegel opines that it must have been written around 100 BC. The research of Dr. Arthur Coke Burnell is that it must have been compiled in the period between 500 BC and 100 BC, and most probably some king from the Chalukya Dynasty must have got it written to serve as the constitution of his kingdom. Some other Indologists fix the period of its compilation as between 350 BC and 200 BC.

this purpose, apart from Manu's Smriti, many other Shastras and Smrities were written, but Manu's Smriti has eminence over others, because the other books were either plagiarized from Manu or being contradictory to Manu, have been rejected by Hindu scholars. In the Hindu religious books, it is commonly expressed that "whatever Manu says is the truth," and "whatever is against Manu's Smriti is not reliable." Hence, to know about the laws of Hindu religion, there is no other better source than this.

Since this collection was compiled in the era when Aryan kingdoms had been firmly established in India, and the cultural and social progress had taught them to follow a particular regulation in the execution of their affairs, we find in it laws and ordinances about different important aspects of war too.

**(i) Objective of War:** The first issue concerns the objective of war. Manu has not discussed this issue in great detail. However, from the following it is clearly understood the objectives for which he declares war lawful.

*"Those rulers of the earth, who, desirous of defeating each other, exert their utmost strength in battle, without ever averting their faces, ascend after death directly to heaven."* (Chapter VII: 89)

*"By a king, whose forces are always ready for action, the whole world may be kept in awe; let him then, by a force always ready, make all creatures living his own."* (Chapter VII: 103)

*"When he thus has prepared himself for conquest, let him reduce all opposers to submission by negotiations and three other expedients, namely, bribery, division and force of arms."* (Chapter VII: 107)

*"Among those four modes of obtaining success, the wise prefer negotiation and war for the exaltation of the kingdoms."* (Chapter VII: 109)

*"Thus fully performing all duties required by law, let a king seek, with justice, to possess regions yet unpossessed, and, when they are in his possession, let him govern them well."* (Chapter IX: 251)



*"His (i.e. the king who acts according to Dharma) peculiar duty is conquest, and he must not recede from battle."*  
(Chapter X: 119)

From these Shlokas, it is understood that on the question of the objective of war, Manu's reach of thought is not higher than that of Sri Krishna. Manu's thoughts about the objective of war have not reached any loftier ethical objectives beyond the pandemic desire of expansion of kingdom, conquests of countries, subduing the neighbouring powers and opposing nations. He, too, like common worldly people, considers acquiring kingdom and political power the ultimate objective of the powerful, and exhorts them to keep on using their might in the conquest of newer territories. This conception of the usage of the right and the might and power cannot be the result of any loftier ethics and chaste vision. In the sight of ethics, the human blood, liberty of the nations and peace and tranquility of the countries are more valuable than the avarice of the kings to conquer more and more countries and territories. To fulfil one's avarice, lust and ambition can never be the objective of ethics. Ethics is always desirous of collective prosperity and reformation of humanity, and it can permit a catastrophic activity like war only in the event when there is no other way to save humanity from material, spiritual and ethical ruination from the hands of avaricious powers. But, it looks like that neither Manu nor any other Hindu philosopher or jurist could reach this notion and those who tried, after crossing over the borders of moderation, to reach a little farther could reach only the borders of *Ahimsa* (non-violence), which is no less harmful to the collective prosperity and reformation of humanity than the open permission to bloodshed; rather, practically the result of both of them is one, which is devastation of nations and countries and domination of the unruly and the mischief-mongers.

**(ii) Ethical Limitations of War:** Manu has progressed a lot in respect of practical aspect of war, and to bring war operations under a regulation has established such limitations which, to a considerable extent, are similar to the limitations fixed by Islam. Following are Manu's ordinances in this respect:

*"Let no man, engaged in combat smite his foe with sharp weapons concealed in wood, nor with arrows mischievously barbed, nor with poisoned arrows, nor with dots blazing with fire." (Chapter VII: 90)*

*"Nor let him in a car or on horseback strike his enemy alighted on ground; nor an effeminate man; nor one who sues for life with closed palms; nor one whose hair is loose and obstructs his fight; nor one who sits down fatigued; nor one who says I am thy captive. Nor one who sleeps; nor one who has lost his coat of mail; nor one who is naked; nor one who is disarmed; nor one who is a spectator, but not a combatant; nor one who is fighting with another man." (Chapter VII: 91-92)*

*Calling to mind the duty of honourable men, let him never slay one who has broken his weapon; nor one who is afflicted with private sorrow; nor one who is grievously wounded; nor one who is terrified; nor one who turns his back." (Chapter VII: 93)*

*"Cars, horses, elephants, umbrellas, habiliments, except the jewels which may adorn them, grain, cattle, women, all sorts of liquids and metals, except gold and silver, are the lawful prizes of the man who takes them in war." (Chapter VII: 96)*

*"But of those prizes, the captors must lay the most valuable before the king... and the king should distribute among the whole army what has not been separately taken." (Chapter VII: 97)*

*"If he block up his enemy, let him sit encamped, and lay waste the hostile country; let him continually spoil the grass, water, and wood of the adverse prince. Pools, wells and trenches, let him destroy; let him harass the foe by day, and alarm him by night." (Chapter VII: 195-195)*

*"Having conquered a country, let him respect the deities<sup>1</sup> adored in it, and their virtuous priests; let him also distribute largesses to the people, and cause a full exemption from terror to be loudly proclaimed." (Chapter VII: 201)*

*"When he has perfectly ascertained the conduct and intentions of all the vanquished, let him fix in that country a prince of the royal race, and give him precise instructions."<sup>2</sup> (Chapter VII: 202)*

*"Let him establish the laws of the conquered nation as declared in their books; and let him gratify the new prince with gems, and other precious gifts." (Chapter VII: 203)*

Some of these laws are such that it is impossible to follow them in the battlefield. For example, it is ordained that a man on the horseback should not kill the one who is on foot; that the enemy should not be attacked if his hair

<sup>1</sup> Kulluka Bhatta, the Commentator of Manu's Smriti, has explained this to mean the deities of the conquered country, but the word "priest" (Brahmans) points out to the fact that this law is not about non-Aryan deities, and it is also not expected that Manu would order Aryans to respect or worship non-Aryan's deities.

<sup>2</sup> This law also pertains with regard to the mutual conflicts between the Aryan nations (and that too between the two Hindu Aryan nations), because Shloka 202 is not an independent Shloka but is a part of a continuous sentence which runs from No.26 to No.203. This view is corroborated from other sources too. Prof. E. Washburn Hopkins writes in *The Cambridge History of India*, Vol. I (Edited by E.J. Rapson, 1922 edition):

"It is interesting to note that both Manu and Vishnu state that when a king has conquered a foreign foe he shall make a prince of that country (not of his own) the king there, and (Vishnu adds, III, 49) he shall not destroy the royal race of his foe unless that royal race be of ignoble birth." (p. 289-290)

Another authority on the ancient history of India, who was very much enamoured with the Indian culture, Prof. Ernest Binfield Havel, writes in his book *"The History of Aryan Rule in India"*:

"Wars between the different Aryan tribes as well as struggles between the non-Aryan 'barbarians,' the Dasyus and Dasas, were frequent, but as in the former case it was a fixed principle that war should not be made merely for acquisition of territory, and that conquered Aryan king should not be deposed but should become the tributary of the conqueror; tribal quarrels probably did not greatly disturb Aryan social order." (p. 33)

gets loosened; that if the enemy is not wearing armour he should be left alone; that if the enemy soldier is fighting another, he should not be attacked. In all such laws the showcasing of ethics has dominated the desire for real reformation, and hence balance could not be maintained between the ethical limits and the exigencies of war. It is quite apparent that in the battlefield when pitched battles are fought a soldier cannot heed to all these laws, and if he heeds, he cannot fight. On the other hand, Manu has sacrificed even the ethical sense of responsibility on the exigencies of war in many of his ordinances; for example, the law that the enemy country should be starved to death by destroying all its essential resources is not at all compatible with loftier ethical sense and values. However, on a whole, these laws of Manu are very civilized and point to a well-developed ethical sense which pays attention to the performance of human duties even during armed conflicts and enmity, and had reached that lofty ethical perception that man's enemy, as a human being, has also got certain rights which, at any rate, should always be kept in mind. In this respect, in principle, the laws of Manu, although not as much balanced and progressive, are closer to the laws of Islam.

*(iii) Treatment of the Conquered People:* We have described above that the Laws of Manu were compiled at that age when the political power of non-Aryan people had been completely wiped out and there was not even one non-Aryan kingdom in existence at that time with which there could have been a war. Therefore, it is futile to search in the Laws of Manu such laws which had been promulgated in respect of war between Aryan and non-Aryan people. At that age, all those non-Aryan people who were called Dasas, Dasyus, Rakhshasas, etc. in the Vedas had either left the populated areas and taken shelter in the hills and mountains, or having been conquered and subjugated had become part of the population of the country, and

collectively they were named "Shudras." Hence, from the Laws of Manu, we can gather only the instructions that the Hindu Law gives about the treatment that is to be meted out to the conquered Aryan Hindus by the conquering Aryan Hindus. Manu's laws of war do not tell us what sort of treatment is to be meted out to the non-Aryan conquered people by Aryan conquering people. To know this, we have to look at the Laws of Manu in respect of Shudras:

1. Manu considers Shudras ignoble by nature. He considers them the lowliest of the creatures not on account of their deeds, but because of their birth:

*"That the human race might be multiplied, He caused the Brahman, the Chatriya, the Vaisya, and the Shudra (so named from the scripture, protection, wealth, and labour) to proceed from his mouth, his arm, his thigh and his foot."*<sup>1</sup>  
(Chapter I: 31)

*"The first part of a Brahman's compound name should indicate holiness; of a Chatriya's power; of a Vaisya's wealth; and of a Shudra's contempt."* (Chapter II: 31)

*"Let the second part of the priest's name imply prosperity; of the soldier's preservation; of the merchant's nourishment; of the servant's humble attendance."*  
(Chapter II: 32)

*"The three twice born classes are the sacerdotal (Brahmans), the military (Chatriyas) and the commercial (Vysias); but the fourth, or servile (Shudra), are once born."* (Chapter X: 4)

*"Elephants, horses, men of the servile class (Shudras), and contemptible Malechhas, or barbarians, lions, tigers and boars are the mean states (of transmigration) procured by the quality of darkness."* (Chapter XII: 43)

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<sup>1</sup> This has also been described in Bhagvat Purana: "The Brahmins represent his mouth, the Chatriyas his arms, the Vaisyas his thighs and the Sundras are born of his legs." (2:5:37)

2. Manu considers Shudras to be ignoble, filthy and contemptible by nature, and ordains that the twice-born i.e. the noble Arayns should avoid mingling with them socially.

*"A Brahman, if he takes a Shudra to his bed, as his first wife, sinks to the regions of torment; if he begets a child by her, he loses even his priestly rank."* (Chapter III: 17)

*"Nor let him tarry even under the shade of the same tree with outcastes for great crimes, nor with Chandalas<sup>1</sup>..."* (Chapter IV: 79)

*"Surely he who declares the law to a servile man (Shudra), and he who instructs him in the mode of expiating sin, except by the intervention of a priest, sinks with that very man into the hell named Asmavrita."* (Chapter IV: 81)

*"He must never read the Veda without accents and letters well pronounced; nor ever in the presence of Sudras."<sup>2</sup>* (Chapter IV: 99)

*"(He should not eat) the food<sup>3</sup> of a servile man (Shudra),"* (Chapter IV: 211)

*"Food given by a king impairs his manly vigour; by one of the servile class (Shudras), his divine light; by goldsmiths, his life; by leather cutters, his good name."* (Chapter IV: 218)

<sup>1</sup> "From a Shudra, on women of the commercial, military and priestly classes are born sons of a mixed breed, called Ayogava, Cshattri, and Chandala, the lowest of the mortals." (Manu, Chapter X: 12)

<sup>2</sup> "Now if he (i.e. a Sudra) listens intentionally to (a recitation of) the Veda, his ears shall be filled with (molten) tin or lac. If he recites (Vedic texts), his tongue shall be cut out. If he remembers them, his body shall be split in twain." (*Gautama Dharmasastra*, Chapter XII, 2-6, translated by Georg Buhler, Oxford, 1879)

<sup>3</sup> "Food touched by (a Brahmana or other high caste person) who is impure, becomes impure, but not unfit for eating. But what has been brought (be it touched or not) by an impure Shudra must not be eaten." (*Apastamba Dharma-sutra*, I: 5: 16: 21-22, translated by Georg Buhler, Oxford, 1879) "If during the meal, a Sudra touches him (then he shall leave off eating)." (*Apastamba Dharma-sutra*, I: 4: 17: 1, translated by Georg Buhler, Oxford, 1879) "If a Brahman dies with the food of a Sudra in his stomach, he will become a village pig (in his next life), or be born in the family of that (Sudra)." (*Vasishtha Dharmasastra*, Chapter VI: 27, translated by Georg Buhler, Oxford, 1882)

*"Having unknowingly swallowed the food of such persons (Sudras), he must fast during three days; but having eaten it knowingly, he must perform the same harsh penance as if he has tasted any femal impurity, ordure, or urine." (Chapter IV: 222)*

*"One who has touched a Chandala ... is made pure by bathing." (Chapter V: 85)*

*"Let men carry out a dead Shudra by the southern gate of the town; but the twice-born in due order, by the western, northern and eastern gates." (Chapter V: 92)*

*"Let no kinsman, whilst any of his own class are at hand, cause a deceased Brahman to be carried out by a Shudra; since the funeral rites polluted by the touch of a servile man (Shudra), obstructs his passage to heaven." (Chapter V: 104)*

*"From a Shudra, on women of the commercial, military and priestly classes are born sons of a mixed breed, called Ayogava, Cshattri, and Chandala, the lowest of the mortals." (Chapter X: 12)*

*"The abode of a Chandala and a Swapasa must be out of the town; they must not have the use of entire vessels; their sole wealth must be dogs and asses. Their clothes must be the mantles of the deceased; their dishes for food, broken pots; their ornaments, rusty iron; continually they must roam from place to place. Let no man who regards his duty religious and civil, hold any intercourse with them; let their transactions be confined to themselves, and their marriages between equals. Let food be given to them in potsherds, but not by the hands of the giver, and let them not walk by night in cities or town. By day they may walk about for the purpose of work, distinguished by the king's badges; and they shall carry out corpse of everyone who dies without kindred; such is the fixed rule. They shall always kill those who are to be slain by the sentence of the law and by the royal warrant; and let them take the clothes of the slain, their beds and their ornaments. (Chapter X: 51-56)*

*"Let no Brahman ever beg a gift from a Shudra; for, if he performs a sacrifice after such begging, he shall, in the next life, be born a Chandala." (Chapter XI: 24)*

*"Should one of them eat the food of those persons, with whom he ought never to eat, or food left by a woman or a Shudra, or any prohibited flesh, he must drink only barley gruel for seven days and nights." (Chapter XI: 153)*

3. Manu forces the Shudras to be servile to the twice-born. He considers serving the twice-born as the natural and inborn occupation of the Shudras.

*"One principal duty the Supreme Ruler assigns to a Shudra; namely to serve the before-mentioned classes (Brahmans, Chattriyas and Vaisya), without depreciating their worth." (Chapter I: 91)*

*"Attendance on Brahman is pronounced the best work of a Shudra; whatever else he may perform will comparatively avail him nothing." (Chapter X: 123)*

*"The king should order ... each man of the servile class to act in the service of the twice-born." (Chapter VIII: 410)*

*"But a man of the servile (Shudra) class whether bought or unbought, he may be compelled to perform servile duty; because such a man was created by the Self-Existent for the purpose of serving Brahman." (Chapter VIII: 413)*

*"A Shudra, though emancipated by his master, is not released from a state of servitude; for, of a state which is natural to him, by whom he can be divested?" (Chapter VIII: 414)*

4. Manu refuses to give Shudras right of ownership even to their self-earned property and wealth.

*"A Brahman may seize without hesitation, if he be distressed for subsistence, the goods of his Shudra slave; for, as that slave can have no property, his master can take his goods." (Chapter VIII: 417)*

*"No superfluous collection of wealth must be made by Sudra, even though he has power to make it, since a servile man who has amassed riches becomes proud, and by his insolence or neglect, gives pain to Brahman." (Chapter X: 129)*

5. In the law of inheritance too, Manu has discriminated between the twice-born and the Shudras. In certain cases he completely disinherits the Shudras and in



other cases he keeps them on a lower status than the twice-born.

*"If there be four wives of a Brahman in the direct order of the classes, and sons are produced by them all this is the rule of partition among them: The chief servant in the husbandry, the bull kept for impregnating cows, the riding horse or carriage, the ring and other ornaments and the principal premises, shall be deducted from the inheritance and given to the Brahman-son together with a larger share by way of pre-eminence.*

*"Let the Brahman take three shares of the residue; the son of a Chatriya wife, two shares; the son of a Vaisya wife, a share and a half; and the son of a Shudra wife may take one share.*

*"Or, if no deduction be made, let some person learned in the law divide the whole collected estate into ten parts and make a legal distribution by this following rule:*

*"Let the son of the Brahmani take four parts; the son of Chatriyani, three; let the son of the Vaisyani have two parts; let the son of a Sundrani take a single part, if he be virtuous.*

*"But whether the Brahman have sons, or have no sons, by wives of the first three classes, no more than a tenth part must be given to the son of a Shudra.*

*"The son of a Brahman, a Chatriya, or a Vaisya by a woman of servile (Shudra) class, shall inherit no part of the estate, unless he be virtuous; nor jointly with other sons, unless his mother was lawfully married: whatever his father may give him, let that be his own.<sup>1</sup>*

*"All the sons of the twice-born men, produced by the wives of the same class, must divide the heritage equally, after the younger brothers have given the first-born his deducted allotment." (Chapter IX: 149-156)*

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<sup>1</sup> The text of this Shloka is quite contradictory to the previous Shloka. This contradiction has also been noticed by the exponents of Manu (Kulluka and Medhatithi) and they interpret it that getting a share by the son of a Shudra woman depends on his deeds. If he is virtuous and his mother was lawfully married to his father, then only he can get his share.

6. In the criminal laws too, Manu has treated Shudra very harshly. He is very stringy in giving protection of law to their lives and honour; contrary to this, he is so liberal in assigning rights to the twice-born and giving them protection of law that the constitutional status of the Shudras is rendered almost to nothing.

*"A once-born man (i.e. a Shudra) who insults the twice-born with gross invectives ought to have his tongue slit; for, he sprang from the lowest part of Brahma."* (Chapter VIII: 270)

*"If he mentions their names and classes with contumely, as if he say, O! Devadatta, you refuse of Brahmans, an iron rod, ten fingers long shall be thrust red-hot into his mouth."* (Chapter VIII: 271)

*"Should he, through pride, give instructions to priests concerning their duty, let the king order some hot oil to be dropped into his mouth and his ear."* (Chapter VIII: 272)

*"A man of the lowest class (Shudra) who shall insolely place himself on the same seat with one of the highest, shall either be banished with a mark on his hinder parts, or the king shall cause a gash to be made on his buttock."* (Chapter VIII: 281)

*"Should he spit on him with pride, the king shall order both of his lips to be gashed; should he urine on him, his penis; should he break wind against him, his anus."* (Chapter VIII: 282)

*"If he seizes the Brahman by the locks, or by the feet, or by the beard, or by the throat, or by the scrotum, let the king, without any hesitation cause incisions to be made in his hands."* (Chapter VIII: 283)

*"A mechanic or servile man (Shudra), having an adulterous connection with a woman of a twice-born class, whether guarded at home or unguarded, shall thus be punished; if she was unguarded, he shall lose the part offending, and his whole substance; if guarded and a priestess, everything, even his life."*

*"For adultery with a guarded priestess (Brahman woman), a merchant (Vaisya) shall forfeit all his wealth after imprisonment for a year; a soldier (Chatriya) shall be fined a thousand panas, and be shaved with the urine of an ass."*

*"But if a merchant (Vaisya) or a soldier (Chatriya) commits adultery with a woman of sacerdotal (Brahman) class, whom her husband guards not at home, the king shall only fine the merchant five hundred, and the soldier a thousand."*

*"Both of them, however, if they commit that offence with a priestess (Brahman woman) not only guarded, but eminent for good qualities, shall be punished like men of the servile class (Shudras), or be burned in a fire of dry grass or reeds."*

*"A Brahman who carnally knows a guarded woman without her free will, must be fined a thousand panas, but only five hundred if he knew her with her free consent." (Chapter VIII: 374-378)*

*"Never shall the king slay a Brahman though convicted of all possible crimes; let him banish the offender from his realm, but with all his property secured and his body unhurt; no greater crime is known on earth than slaying a Brahman; and the king, therefore, must not even form in his mind the idea of killing a priest.<sup>1</sup> (Chapter VIII: 380-381)*

*"Should the man of the basest class, with preconceived malice, give pain to Brahmans, let the king corporally punish him by various modes that may raise terror." (Chapter IX: 248)*

*"For killing intentionally a virtuous man of the military class (Chatriya), the penance must be a fourth part of that ordained for killing a priest (Brahman); for killing a Vaisya, only an eighth; for killing a Shudra who has been constant in discharging his duties, a sixteenth part." (Chapter XI: 127)*

*"But if a Brahman kills a Chatriya without malice, he must, after a full performance of his religious rites, give the*

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<sup>1</sup> We come to know from *Apastamba Dharma-sutra* that: "In case (a Shudra) commits homicide or theft, appropriates land (or commits similar heinous crimes) his property shall be confiscated and he himself shall suffer capital punishment." (II: 10: 27: 16) "But if these (offences be committed) by a Brahmana, he shall be made blind (by tying a cloth over his eyes)." (II: 10: 27: 17)

*priests one bull together with a thousand cows. Or he may perform for three years the penance for slaying a Brahman, mortifying his organs of sensation and action, letting his hair grow long, and living remote from the town, with the root of a tree for his mansion. If he kills, without malice, a Vaisya who had a good moral character, he may perform the same penance for one year, or give the priests a hundred cows and a bull. For six months must he perform this whole penance if, without intention, he kills a Sudra, or he may give ten white cows and a bull to the priests."* (Chapter XI: 128-131)

*"If he kills, by design, a cat or ichneumon, the bird chasha, or a frog, or a dog, a lizard, an owl, or a crow, he must perform the ordinary penance required for the death of a Shudra, that is the Chandrayana."* (Chapter XI: 132)

These laws are self-explanatory. The kind of ignobility with which the Hindu Law looks down at the conquered people and the lowest rank it gives them is quite clear from the aforesaid laws. If these are compared with the rights that Islam grants to its non-Muslim Zimmies (citizens), one finds a vast difference between the two.

**(iv) Racial Discrimination:** Some of the present-day Hindu writers, having got impressed by the modern-day thoughts claim that the division of castes in Hinduism is not based on birth and race; rather it is based on Guna and Karma. If it were to be so, we would have been most happy about it. But, unfortunately, the original books of Hindu Laws do not attest their claim both in words and spirit. On the contrary, we understand from them that Hinduism is absolutely clueless of the conception of discrimination on the basis of skills, deeds and attributes. The division in Hinduism is not on the basis of Karma but on the basis of Varna. In the ancient times, the ignobility of those who were called Dasas and Dasyus and later on were named Shudras, was not because they were evil-mongers, but was because they were born in a non-Aryan race. Just glancing over the laws of inheritance, the criminal laws and the

social laws quoted above would be enough to reveal and confirm this fact. You will find in these laws that even those rights have not been given to a very virtuous Shudra which have been confirmed on a Brahman who commits the most evil and worst kinds of crimes. If the son of a Brahman has taken birth from the womb of a Shudra woman, even being virtuous, has not been given the same rights as his brother who has taken birth from the Brahman wife of his father. If the offspring of a Shudra are born from the womb of a Brahman woman, just this kind of birth is enough to declare them Chandalas, and make them lead the miserable and ignoble life of Chandalas which Manu has particularly prescribed for them. Why this discrimination? Is it the fruit of Karma (deeds)? Is taking birth in a Shudra family a misdeed and sin, and taking birth in a Brahmin family a good deed and a virtue? If it is not so, then it is nothing but discrimination on the basis of race and nationality and not based on evil and virtue. Hinduism has based the nobility and ignobility of man not on his personal deeds and attributes, but on the womb and semen. Manu himself has stipulated this fact in great detail. He says:

*"He, who was begotten by an exalted man on a base woman, may, by his good acts, become respectable;<sup>1</sup> but he, who was begotten on an exalted woman by a base man, must himself continue base." (Chapter X: 67)*

*"As good grain, springing from good soil, is in all respects excellent, thus a man springing from a respectable father by a respectable mother, has a claim to the whole institution of the twice-born." (Chapter X: 69)*

*"Brahma himself, having compared a Shudra, who performs the duties of the twice-born, with a twice-born man who does the acts of a Shudra, said: 'Those two are*

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<sup>1</sup> Even then he cannot claim equal rights of those who are born noble. Refer Manu's Laws: Chapter IX:149-156 and Chapter XI:127 quoted above.

*neither equal nor unequal, that is, they are neither equal in rank, nor unequal in bad conduct.*"<sup>1</sup> (Chapter X: 73)

After these stipulations, who can aver that in Hinduism the division of humanity into different castes is not based on race but on deeds? The modern-day Hindu scholars and researchers have tried to prove that the Shudras were not non-Aryan native inhabitants, but actually were themselves Aryans who belonged to the low-ranking strata of the Aryan race. However, unfortunately, in the light of the research carried out in this regard, this claim is not correct. There is no doubt that those Aryans were also included with Shudras who had been declared outcaste or had been expelled from the Aryan society due to the violation of the laws of *Varnashrama-dharma*.<sup>2</sup> But it cannot be denied that the caste of Shudras comprised of all those non-Aryan people who, instead of migrating and settling in the hills and mountains, had accepted the servitude of the Aryan conquerors. It has been established by etymological and historical researches that Shudra was actually a name of the first ancient Indian tribe whom the Aryans had subjugated in the valley of River Atak. Afterwards, whichever Indian tribes accepted subjugation of the Aryans were named

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<sup>1</sup> The meaning of not being equal in rank is that personally the status of the twice-born and the Shudra will remain the same which the society has set for them. However, the good deed of a Shudra in itself will be better than the bad deed of a twice-born, i.e. deed will have prominence over deed, but the doer will not have any prominence over the doer.

<sup>2</sup> They were known as Chandalas. "Chandala: are the variant forms of the name of a despised caste, which in origin was probably a tribal body, which in the Brahminical theory was the offspring of Shudra fathers and Brahmin mothers. The references to the caste in the Yajurveda Samhitas and in the Upanishads show clearly that it was a degraded one, but they yield no particulars. (Arthur Anthony McDonell & Arthur Berridale Keith, *Vedic Index of Names and Subjects*, Vol. I, p. 253) [Translator]

Shudras, and whichever tribes waged war against the Aryans were called Dasyus and Mlecchas (barbarians).<sup>1</sup>

In Taitthiriya Samhita, it is written:

*"Prajapati desired, 'may I propagate.' He formed the Trivrit (stoma) from his mouth. After it, were produced the deity Agni, the metre Gayatri, the Saman (called) Rathantars, of men, the Brahmans, of beasts, the goats. Hence, they are the chief (mukhiyah) because they were created from the mouth (mukhata)... From his foot, he formed the Ekavimsa (stoma). After it, were created Anushtubh metre, the Saman called Vairaja, of men the Sudras, of beasts the horse. Hence, these two, both the horse and the Sudra, are transporters of (other) creatures. Hence (too) the Sudra is incapacitated for sacrifice, because no deities were created after (the Ekavimsa)."*<sup>2</sup>

It has also been mentioned that the Brahman is the caste which has been created from the gods and Shudras are the other caste which has been created from Asuras or fiends/evil demons.

These excerpts clearly indicate that the Shudras are the descendents of the ancestors who, in ancient times, were

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<sup>1</sup> Arthur Anthony McDonell & Arthur Berridale Keith, write in their book, *Vedic Index of Names and Subjects*, Vol. II (London, 1912): "Flick too denies that the Sudras ever formed a single caste: he regards the term as covering the numerous inferior races and tribes defeated by the Aryan invaders, but originally as denoting only one special tribe. It is reasonable to suppose that Shudra was the name given by the Vedic Indians to the nations opposing them, and these ranked as slaves besides the three castes – nobles, priests, and people." (p. 264-265) They further write: "Without laying any stress on this identification, it is reasonable to accept the view that it was originally the name of a large tribe opposed to the Aryan invasion." (p. 391-392) [Translator]

<sup>2</sup> *Taitthiriya Samhita*, vii, 1. 1. 4 ff, as quoted by John Muir in his book, *Original Sanskrit Texts ... Vol. I*, p. 16, (London, 1872).

John Wilson is also of the similar opinion. He writes: "Thus their existence as a distinct nation is established in the neighborhood of the Indus, that is to say, in the region in which, in the oldest time, the Aryan Indians dwelt. They (the Aryans) probably conquered these earlier inhabitants; and it becomes manifest from this circumstance, that it was from the conquest of the other Aborigines in the interior part of the country, that afterwards the name (Shudra) was extended the whole servile caste." (John Wilson, *Indian Caste*, Vol. 1, p. 112, (1877) [Translator])

called evil spirits. All the eminent scholars and researchers of the ancient Indian History support this opinion. As an example, we quote here some of the results of such investigation and research:

Zenaide Alexeievna Ragozin writes:

*"This division is between Aryas and Dasyus. Who the former are we know well, and a natural association leads us to the conclusion that the latter are no other than the native – or non-Aryan – peoples whom the Aryan immigrants found in the land, and whom, after a long period of struggle, they reduced into more or less reluctant submission. There is no doubt but that we have here the first beginnings of caste, for this sweeping division is singularly like the modern one into "twice-born" and Shudra. Besides, the name for caste is even now varna, which means "colour," and we shall presently see that the difference of colour between the white conquerors and the dark-skinned natives is continually alluded to by the Vedic poets. Then, too, the word Dasyu, with the changes of meaning it has undergone, tells an eloquent tale. It is an old Aryan word, and the Persians continued to use it in its original harmless sense of peoples, nations... In India it took a hostile shading – that of "enemies,"<sup>1</sup> whence it easily passed into the cloudland of Vedic mythology with the meaning of "fiends," "evil demons," – the powers of darkness and drought – the "foes" whom Indra eternally combats and conquers with the help of the Maruts, the Angiras, and other beings of light. Logical and natural as the transition is, it adds greatly to the difficulties of Vedic interpretation, because when Indra and Agni are besought to drive away and annihilate the Dasyus, or are said to have destroyed the fastnesses of the Dasyus, it is frequently all but impossible to decide which "enemies" are meant – the earthy or the mythical ones. The last change the word underwent is very significant: it ended by meaning simply "slave, servant," (slightly altered into Dasa), thus telling of conquest*

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<sup>1</sup> In Arabic too, quite often, the word "nation" is used to mean an "enemy nation."



completed, and closely answering the more modern Shudra. We may, then, set down as correct the equation: Arya – Dasyu = “twice-born” – Shudra. And if any more proof be wanted of the fact that the servile class was made such by conquest, we have it in a passage by Manu’s Code, which forbids the twice-born to associate with a Shudra, even though he were a king. What can a Shudra king be but a native sovereign?

“... Although the opposition of Arya to Dasyu or Dasa, of “twice-born” to Shudra, is a perfectly established and intelligible fact, it was a mistake to see in “Dasyu” or “Shudra” the names of a particular nation: they applied to all that were not Aryan, somewhat after the manner that, in classic antiquity, all went by the name of “Barbarians” who were not Greek or Romans.”<sup>1</sup>

Prof. Edward James Rapson writes:

“The poets of the Rig Veda know nothing of the caste in the later and stricter sense of the word; but they recognize that there are diverse orders of men – the priests (Brahma or Brahmana), the nobles (Rajanya or Kshatriya), the tillers of the soil (Vis or Vaisya), and the servile classes (Shudra). Between the first three and the fourth there is a great gulf fixed. The former are conquering Aryans; the latter are subject Dasyus. The difference between them is one of colour (varna): the Aryans were collectively known as ‘light colour,’ and the Dasyus as ‘dark colour.’”<sup>2</sup>

Prof. A. Berriedale Keith writes:

“The main distinction between the Aryan and the Dasa was clearly that of ‘colour,’ and that the distinction between the Aryan varna, ‘colour,’ and the black colour is unquestionably one of the main sources of the Indian caste system. The overthrow of the black skin is one of the most important exploits of the Vedic Indian... But though the main notices of Rig Veda are those of conflicts against

<sup>1</sup> *Vedic India as Embodied Principally in the Rig-Veda*, p. 282-285, (New York, London, 1899).

<sup>2</sup> *The Cambridge History of India, Vol. I, Ancient India, Chapter II*, p. 54 (Cambridge, 1922).

*Dasas and crossing of rivers to win new lands from them, it is clear that the Aryans made no attempt at wholesale extermination of the people. Many of the aborigines doubtless took refuge before the Aryan attacks in the mountains to the north or to the south of lands occupied by the invaders, while others were enslaved."*<sup>1</sup>

Prof. E. Washburn Hopkins writes:

*"The slaves, Shudras and lower orders are recognized as part of the social structure. The name itself suggests that the Shudras were originally a conquered people as Karian became synonymous with slaves in Athens. Yet the Shudras were not Pariahs but members of the household, who took part in some of the domestic rites."*<sup>2</sup>

He further writes:

*"Such rules as that given by Gautama (XII, 2) in the case of the violation of an Aryan woman by a Shudra; when compared with Apastamba Dharmasastra, II, 26, 20 and 27, 9, prove conclusively that 'Arya is noble in race' as distinguished from the 'black colour' (ibid I, 27, 11, with the preceding 'non-Aryans'). Mr. Ketkar in his History of Caste in India (p. 82) is rather rash in stating that there was no racial discrepancy felt between Aryan and Dravidian. It is true that those were outcaste were no longer called Aryans, but no Shudra was ever regarded as Aryan any more than he could be 'reborn.' Arya indicated racial distinction from the times of Rigveda onwards."*<sup>3</sup>

One thing is very clear when we study the aforesaid quotations and evidences that under the Hindu Law, those who have been declared Shudras were actually the non-Aryan conquered nations. Therefore, the laws that have been promulgated in the Hindu Dharma Sastras clearly describe how the Hindu Religion treats those people who have been conquered and brought under its government's subjugation.

<sup>1</sup> *The Cambridge History of India, Vol. IV, Ancient India, Chapter II, p. 85* (Cambridge, 1922).

<sup>2</sup> *Ibid*, Chapter X, p. 234.

<sup>3</sup> *Ibid*, Chapter X, p. 240.

## II. JUDAISM (JEWISH RELIGION)

In the search and research of laws of Judaism we do not encounter such difficulties as we encounter in search of the laws of Hindu religion. Only from their one book, the Torah, we can find out the teachings of the Jewish Religion and its laws and ordinances, and we can see the true hue of Judaism in them. Although modern Jewish scholars have written many books to compile and codify Jewish Laws comprising mostly of minor details, like: *Mishnah of Yehuda Ha-Nasi* written by Yehuda Ha-Nasi around the year 200 CE; *Midrashim* (any of a group of Jewish commentaries on the Hebrew Scriptures compiled between A.D. 400 and 1200 and based on exegesis, parable, and haggadic legend.); *the Talmud* which comprises of the *Mishna* and the Rabbinic commentaries on the *Mishnah* over the next three centuries known as *Gemara*; *Sefer ha-Halachot* written by Issac Al-Fasi in the 11<sup>th</sup> century A.D. which is understood to be the best exegesis of the Talmudic Laws; *Mishneh Torah* compiled by Musa ben Maymun (Mosheh ben Maimon) which was compiled in the late 12<sup>th</sup> century A.D. and is a codification of Talmudic law; *Arba` Turim*, written by Jacob ben Asher in 14<sup>th</sup> century A.D., which is one of the most important halachic books of all times; *Shulchan Aruch*, written by Joseph ben Ephraim Karo in the 16<sup>th</sup> century A.D. in which all the Jewish laws and system of worship have been compiled according to the ancient traditions; but all these books are no use to us, because not all denominations of the Jewish religion agree even on any one of the above books and nor any of the books have the status to stipulate it as the basis and foundation of Judaism. Not only this but most of the time the Jews have shown aversion to these books, and except for the Torah have refused to accept all these books. Hence, the Central Conference of American Rabbis, held in July 1906 at Indianapolis, had openly declared its rebellion against the universality of the religious regulations.

Therefore, setting aside all the aforesaid books, we will turn to the Torah to know about its views on war.<sup>1</sup>

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<sup>1</sup> Before proceeding further, it is important to make clear that whatever we are going to say or comment about the Torah will not be with regard to the Torah which had been revealed on Prophet Moses (peace be upon him), but it will be with regard to the Torah which is in existence today in the name of the Old Testament. According to our investigation, the Pentateuch (i.e. the first Five Books) of the Old Testament is not the original Torah. The original Torah has disappeared from the face of the earth; this fact is supported by the Old Testament itself. We come to know from it that Prophet Moses in the fag end of his life had compiled the Torah with the assistance of Joshua and had kept it in the ark of covenant (Deuteronomy, 31: 24-27). After his death, when in the 6<sup>th</sup> century B.C., Nebuchadnezzar II set fire to the city of Jerusalem this ark along with all those books which had been compiled by the scholars of Law of Moses was also burnt down. Later, after 200-250 years, Ezra the Scribe (according to the traditions of Bible), along with the Levites and Kohens (priests), compiled this book again with the help of divine inspirations. But, the misfortunes of times did not allow this new version of the book to remain in its original form. When the world-conquering floods of Alexander the Great spread all over the entire area of the Near East along with the Greek government, Greeks sciences and etiquette also took root, and in 280 B.C. all the books pertaining to the Torah were translated into the Greek language and slowly the Hebraic version of the Torah was completely replaced by the Greek Translation. Hence, the link of authenticity to this version of the Torah in no way reaches Prophet Moses. But it does not mean that no part of the original Torah is found in the present-day version of the Torah and that it is entirely a fabrication. What we actually want to say is that in this version of the Torah, along with the original portions of the Torah many other foreign things have been interpolated and it is not improbable that many of its original portions might have disappeared altogether. Even today, if a person were to read this Book with an investigative mind, he would feel that exegeses of Jewish scholars, national history of Children of Israel, legal opinions of the Jewish jurists and many other foreign things have got interpolated along with the Divine Word, and that it would be very difficult to sort out these interpolations from the Divine Word. Further, we wish to clarify that according to the Holy Quran, the religion of the Torah is the same as that of the Quran itself, and that Prophet Moses was also a Prophet of Islam as Muhammad (peace be upon him) is the Prophet of Islam; that the Children of Israel, in the beginning, were followers of the religion of Islam and that later they made many additions and deletions to this original religion and invented a new system of religion called "Judaism." Hence, what we are going to discuss here is this Judaism and not the religion that was propagated and preached by Prophet Moses (peace be upon him).

## 1. Objective of War

In the Torah frequent mentions have been made of battles, and war has been ordained in a number of places. But except for the objective mentioned in Deuteronomy Chapter 2, and Numbers Chapter 33, we do not find any other objective. This objective has been mentioned as follows in the Numbers:

*"Now the LORD spoke to Moses in the plains of Moab by the Jordan, across from Jericho, saying, 'Speak to the children of Israel, and say to them: 'When you have crossed the Jordan into the land of Canaan, then you shall drive out all the inhabitants of the land from before you, destroy all their engraved stones, destroy all their molded images, and demolish all their high places; you shall dispossess the inhabitants of the land and dwell in it, for I have given you the land to possess. And you shall divide the land by lot as an inheritance among your families; to the larger you shall give a larger inheritance, and to the smaller you shall give a smaller inheritance; there everyone's inheritance shall be whatever falls to him by lot. You shall inherit according to the tribes of your fathers.' (Numbers, 33: 50-54)*

*"Rise, take your journey, and cross over the River Arnon. Look, I have given into your hand Sihon the Amorite, king of Heshbon, and his land. Begin to possess it, and engage him in battle." (Deuteronomy, 2: 24)*

*"But Sihon king of Heshbon would not let us pass through, for the Lord your God hardened his spirit and made his heart obstinate, that He might deliver him into your hand, as it is this day. And the Lord said to me, 'See, I have begun to give Sihon and his land over to you. Begin to possess it, that you may inherit his land.' Then Sihon and all his people came out against us to fight at Jahaz. And the Lord our God delivered him over to us; so we defeated him, his sons, and all his people. We took all his cities at that time, and we utterly destroyed the men, women, and little ones of every city; we left none remaining. We took only the livestock as plunder for ourselves, with the spoil of the cities which we took." (Deuteronomy, 2: 30-35)*

*"Then we turned and went up the road to Bashan; and Og king of Bashan came out against us, he and all his people, to battle at Edrei. And the Lord said to me, 'Do not fear him, for I have delivered him and all his people and his land into your hand; you shall do to him as you did to Sihon king of the Amorites, who dwelt at Heshbon.' So the Lord our God also delivered into our hands Og king of Bashan, with all his people, and we attacked him until he had no survivors remaining. And we took all his cities at that time; there was not a city which we did not take from them: sixty cities, all the region of Argob, the kingdom of Og in Bashan. All these cities were fortified with high walls, gates, and bars, besides a great many rural towns. And we utterly destroyed them, as we did to Sihon king of Heshbon, utterly destroying the men, women, and children of every city. But all the livestock and the spoil of the cities we took as booty for ourselves." (Deuteronomy, 3: 1-7)*

From these passages it is clearly understood that the Torah's objective of war is territorial conquest. In its view, it is lawful to subjugate the inhabitants of a country with force and take possession of their wealth, properties and even their lives by force, and according to it, this tyranny and oppression is the meaning of heritage of the earth promised to the Children of Israel by Allah:

أَنَّ الْأَرْضَ يَرِثُهَا عِبَادِيَ الطَّيِّبُونَ ﴿١٠٥﴾ (الأنبياء: 105)

*"My servants, the righteous, shall inherit the earth."*

(The Quran, 21: 105)

إِنَّ الْأَرْضَ لِلَّهِ يُورِثُهَا مَنْ يَشَاءُ مِنْ عِبَادِهِ وَالْعَاقِبَةُ لِلْمُتَّقِينَ ﴿١٢٨﴾

(الأعراف: 128)

*"For the earth is Allah's, to give as a heritage to such of his servants as He pleases: and the end is (best) for the righteous."*

(The Quran, 7: 128)

But the perception of the Holy Quran regarding the heritage of earth is quite different from that of the Torah. The Torah bestows the heritage only on the Children of Israel as is evident from Numbers, 33:50-56. But the Holy

Quran declares it as the right of the righteous and not of any particular race or nation. In the Torah, the meaning of "heritage of earth" is that a nation becomes the master of another nation's wealth, properties, country, honour and lives and after obliterating it settles in its lands. But in the Holy Quran, the meaning of bestowing heritage of earth from Allah is that Allah has selected a nation for his sovereignty on earth because of it being virtuous and has assigned them the task of maintaining His earth so that it could establish peace and justice after eradicating tyranny and oppression from it. Further, in the Torah it has been ordained to wage war to get just the heritage of the earth. But in the Holy Quran nowhere it has been mentioned that a certain country or land is your national heritage and that you have to wage war to acquire it. Hence the Torah's "heritage of earth" is nothing but open territorial conquest. Contrary to the Islamic concept of waging war in the Cause of Allah, the objective of war in Torah is just acquisition of lands and wealth and establishing supremacy of a particular people over other peoples.

## 2. Regulations and Limits of War

We do not find many details about the limits and regulations of waging war in the Torah. However, we can find out how the Judaism instructs its followers to treat its enemies, for which the following ordinances are worth reading:

In Deuteronomy, it is ordained:

*"When you go near a city to fight against it, then proclaim an offer of peace to it. And it shall be that if they accept your offer of peace, and open to you, then all the people who are found in it shall be placed under tribute to you, and serve you. Now if the city will not make peace with you, but makes war against you, then you shall besiege it. And when the Lord your God delivers it into your hands, you shall strike every male in it with the edge of the sword. But the women, the little ones, the livestock, and all that is in the*

*city, all its spoil, you shall plunder for yourself; and you shall eat the enemies' plunder which the Lord your God gives you." (20: 10-14)*

*"When you besiege a city for a long time, while making war against it to take it, you shall not destroy its trees by wielding an ax against them; if you can eat of them, do not cut them down to use in the siege, for the tree of the field is man's food." (20: 19)*

*"But of the cities of these peoples which the Lord your God gives you as an inheritance, you shall let nothing that breathes remain alive, but you shall utterly destroy them." (20: 16-17)*

*"And when the Lord your God delivers them over to you, you shall conquer them and utterly destroy them. You shall make no covenant with them nor show mercy to them. ...You shall destroy their altars, and break down their sacred pillars, and cut down their wooden images, and burn their carved images with fire." (7: 2 & 5)*

*"You shall utterly destroy all the places where the nations which you shall dispossess served their gods, on the high mountains and on the hills and under every green tree: And you shall destroy their altars, break their sacred pillars, and burn their wooden images with fire; you shall cut down the carved images of their gods and destroy their names from that place." (12: 2-3)*

It is mentioned in Exodus:

*"Observe what I command you this day: Behold, I am driving out from before you the Amorite and the Canaanite and the Hittite and the Perizzite and the Hivite and the Jebusite. Take heed to yourself, lest you make a covenant with the inhabitants of the land where you are going, lest it be a snare in your midst. But you shall destroy their altars, break their sacred pillars, and cut down their wooden images." (34: 11-13)*

It has been ordained in Numbers thus:

*"And the Lord spoke to Moses, saying: 'Take vengeance on the Midianites for the children of Israel. Afterward you shall be gathered to your people.'" So Moses spoke to the people, saying, 'Arm some of yourselves for war...A*



*thousand from each tribe of all the tribes of Israel you shall send to the war.' So there were recruited from the divisions of Israel one thousand from each tribe, twelve thousand armed for war... And they warred against the Midianites, just as the Lord commanded Moses, and they killed all the males... And the children of Israel took the women of Midian captive, with their little ones, and took as spoil all their cattle, all their flocks, and all their goods. They also burned with fire all the cities where they dwelt, and all their forts. And they took all the spoil and all the booty—of man and beast. Then they brought the captives, the booty, and the spoil to Moses, to Eleazar the priest, and to the congregation of the children of Israel, to the camp in the plains of Moab by the Jordan, across from Jericho... But Moses was angry with the officers of the army, with the captains over thousands and captains over hundreds, who had come from the battle. And Moses said to them: "Have you kept all the women alive? Look, these women caused the children of Israel, through the counsel of Balaam, to trespass against the Lord in the incident of Peor, and there was a plague among the congregation of the Lord. Now therefore, kill every male among the little ones, and kill every woman who has known a man intimately. But keep alive for yourselves all the young girls who have not known a man intimately." (31: 1-18)*

It is written in Joshua:

*"And they utterly destroyed all that was in the city, both man and woman, young and old, ox and sheep and donkey, with the edge of the sword. But they burned the city and all that was in it with fire. Only the silver and gold, and the vessels of bronze and iron, they put into the treasury of the house of the Lord." (6: 21 & 24)*

*"But the king of Ai they took alive, and brought him to Joshua. And it came to pass when Israel had made an end of slaying all the inhabitants of Ai in the field, in the wilderness where they pursued them, and when they all had fallen by the edge of the sword until they were consumed, that all the Israelites returned to Ai and struck it with the edge of the sword. So it was that all who fell that day, both*

*men and women, were twelve thousand—all the people of Ai. For Joshua did not draw back his hand, with which he stretched out the spear, until he had utterly destroyed all the inhabitants of Ai. Only the livestock and the spoil of that city Israel took as booty for themselves, according to the word of the Lord which He had commanded Joshua. So Joshua burned Ai and made it a heap forever, a desolation to this day.” (8: 23-28)*

From the aforesaid passages, it is evident that Judaism divides its enemies into two kinds. One, those whom the Lord has not given in the heritage of the Children of Israel, and the other, those whom He has given in their heritage; both of them are dealt with differently.

For the first kind of enemies, His ordinance is that first they should be offered peace and if they accept it and handover their country to them, they should be placed under their tribute and make them their servants. But if they do not accept the peace, then war should be waged against them and after the conquest, their men should all be killed and their women and children be enslaved and their wealth and properties be taken possession of. During the warfare, it is prohibited to destroy orchards, farms and fruit-bearing trees, not because it is a mischievous act, but because in the event of gaining victory, the victor would not be able to benefit from them.

As regards the other kind of enemies, He strips them of all human rights and concessions. His ordinance is that no covenant of peace should be entered into with them; war should be waged against them without any delay; their habitats should be utterly destroyed; their farms, orchards, buildings, places of worship should all be obliterated; their women, men, children and even their cattle should be put to sword and they should be completely vanquished from the face of the earth. The only objective of this war is that those people who have been given in the heritage of the Children of Israel should be completely annihilated; these

people have not been offered any other alternative by which they could save their lives.

There is no need to further comments on these teachings; they are self-explanatory. A living description of these teachings is the State of Israel created on the land of Palestine, which has been established on this very concept of "heritage of earth," and in this 20<sup>th</sup> Century (and also now 21<sup>st</sup> Century) it is treating the Palestinian Muslims in exactly the same way as has been instructed in the existent Torah.

### **III. BUDDHISM**

So far those religions were under discussion with which Islam has no differences as regards to the permissibility or non-permissibility of war; the only difference is with regard to its ethical and practical aspects. Now, we are going to take up those other kinds of religions which are basically opposed to war in principle, and are opposed to Islam because it permits waging of war. Out of these religions, in the historical order, Buddhism comes first.

#### **1. Source of Buddhism**

Before investigating the issue under discussion, it is to be understood that today we do not have any authentic source of knowing the real teachings of the Buddha. Buddha has not written any book in his lifetime, nor has he got compiled any compilation of the beliefs and laws of the religion that he had founded to know his teachings from his own words. Historically, it is established that none of his followers tried to write down Buddha's teachings either in his lifetime or soon after his death. However, from a few traditions available we understand that after Buddha's death, a great council was held at Raja Graha, the royal residence of the ruler of Magadha, in which two of Buddha's very prominent disciples gave oral lectures on his

teachings. However, first of all it is established from the very same traditions that these lectures were not written down, and secondly, historically it cannot be proved conclusively whether such a council was ever held. *Mahâ-parinibbâna-Sutra*, which is the most authentic source available to know about the life of Buddha, is completely silent about this council.<sup>1</sup> As far as the books which are in existence today and which are the only source of information about Buddhism are concerned, they were all written much later after the death of Buddha. A century had already passed to the death of Buddha that a Council of Buddhist scholars was held at Vesali, about 377 B.C., and after great discussions its principles, beliefs and ordinances were tried to be formulated. The author of *Dipavamsa* informs us that in the Council, the Bhikshus altered the principles of the original religion, made additions and deletions in the beliefs and ordinances, and changing the original Sutras formed new Sutras in their place.<sup>2</sup> During this very period, the writing down of the teachings of Buddhism commenced and continued for nearly 400 years i.e. up to the First Century B.C. But in the last stages of this period this religion had to face again revision and alteration of its teachings and even its basic principles were changed. In the original Buddhism, there was no existence of god, but now existence of an immoral entity has been recognized who is superior and supreme to all things in the entire universe and who made its material and transitory manifestation in the form of Buddha. In the original Buddhist teachings, there was no conception of "paradise" and "hell." But later on, it was accepted that the reward for virtuous acts would be paradise and for wrongdoings would be hell. In the ancient Buddhism, the rules governing the

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<sup>1</sup> Davids, T.W. Rhys, *Buddhist Suttas*, Introduction, pp. xi-xiii.

<sup>2</sup> Editor's Preface by Max Muller, *The Sacred Books of the Buddhists*, p. xv, published 1895.

monastic life were very harsh; they were changed to make them a little softer. This last alteration took place during the reign of Kanishka in the first century BC. History informs us that in the Council that was held under his aegis in Kashmir new tenets and laws of Buddhism were formulated along with the aforesaid additions and deletions. A small sect of Buddhists rejected these new laws, but a majority of the followers of the Buddha, who are known as Mahayana, has accepted them.<sup>1</sup>

It is apparent from the above that there is no book as such in Buddhism which can be called a religious book in its true sense, and we cannot find out what were the original teachings of the Buddha from any reliable source. At the most, we can rely on those books which have reached us unscathed from the last changes and alterations made during the reign of King Kanishka, and those are the following three:

1. ***Vinaya Pitaka (The Basket of the Discipline)***: This is a compilation of laws and regulations governing the monastic life in Buddhism, and most probably was compiled somewhere between 350 B.C. and 250 B.C. But we do not have any information about its author or authors.
2. ***Sutta Pitaka (The Basket of the Discourses)***: In this compilation, sayings of the Buddha and his close disciples about the ethical philosophy of Buddhism and the ways and means of achieving salvation have been collected. With regard to this compilation too, nothing has been preserved in the history as to its author or authors, or the date or period in which it was compiled or written.
3. ***Abhidhamma Pitaka (The Basket of the Special Doctrine or Further Doctrine)***: The topics dealt with in *Abhidhamma* books include ethics, psychology, and

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<sup>1</sup> H. Hackman, *Buddhism as a Religion*, (published 1910), p. 51-55.

epistemology. We know this much about its origin that it was in existence before the end of Third Century B.C.<sup>1</sup>

In the following pages, all that we are going to comment about the teachings of the Buddha, in fact, would be as found in the aforesaid books and not on the basis of the original teachings of the Buddha because we do not know what kind of teachings he used to impart.

## 2. Teaching of Ahimsa

Buddhism is a religion of ahimsa. In this religion, every living being has been declared innocent, and that the life of every living being right from man to an animalcule (microscopic living being) cannot be outraged and transgressed in any circumstance. The first commandment out of the Ten Commandments of the Buddha is "Do not destroy life." Under the Buddhist law, any Bhikshu who knowingly kills a living thing is deemed to have committed an unpardonable crime. This teaching has gone to such extremes that it prohibits the Bhikshus from venturing out of their abodes for three months in the rainy season lest the insects and animalcules do get crushed under their feet.<sup>2</sup> With these kinds of extreme ordinances of ahimsa, it is impossible even to have a perception of war let alone permission to wage it. When the inviolability of life is so great in the sight of Buddhism, it is natural that it should view an act with severest abhorrence where not the lives of just insects, but the lives of not one or two but thousands of human beings get sacrificed under the swords of men and hooves of horses. This is the reason that the Buddha has not given permission to a Bhikshu even to go and watch the

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<sup>1</sup> For further details, please refer to the Preface written by Mr. T.W. Rhys Davids to his Book, *Buddhist Suttas*.

<sup>2</sup> T.W. Rhys Davids & Hermann Oldenberg, *Vinaya Texts*, Part I, Chapter: Third Khandhaka [Residence during the Rainy Season, Vassa], p. 298-301, (Oxford 1881).

bloodshed in a battlefield as a spectator. Hence, Clause 48 of Chapter Pakittiya Dhamma says:

*"48. Whatsoever Bhikkhu shall go to see an army drawn up in battle-array, except for a cause to sufficient – that is a Pakittiya:"*

Clauses 49 and 50 say:

*"49. And if there be any reason for that Bhikkhu's going to the army, that Bhikkhu may remain there for two or three nights. If he remains longer than that – that is Pakittiya."*

*"50. And if while remaining there for two or three nights he should go to the battle-array, or to the numbering of the forces or to a review – that is Pakittiya."*<sup>1</sup>

### 3. Philosophy of the Buddha

From the aforesaid ordinances, we can clearly comprehend the ideology of the Buddha about war. But it is not enough just to know these brief ordinances to guess their merits and demerits; rather, it is necessary to understand that whole philosophical system of which the belief in ahimsa is just a part. In fact, ahimsa itself is one of the ways which help mould human life in that particular manner and take him on that particular path which has been chosen by the Buddha for man. Therefore, we have to find out the shape in which the Buddha wants to mould the human life; the path on which he wants to take man; the ultimate goal which he wants him to achieve; and the practical ways and means he uses for this purpose. Without understanding these issues, it is difficult to understand the real spirit of ahimsa and also its deep effects on the human life.

The point of view with which the Buddha has studied the human life is quite different from the points of view of other philosophers and teachers of different religious orders

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<sup>1</sup> T.W. Rhys Davids & Hermann Oldenberg, *Vinaya Texts*, Part I, Chapter: Pakittiya Dhamma, p. 43 (Oxford 1881)

and ethics of the world. The Buddha has not at all tried to understand why man has been created and what his objective of life is. Hence, naturally he also does not discuss the way of life which is suitable for man and his fellow beings which ensures his real success in this world. He has devoted his entire attention to solve just one question: why there are so many changes and revolutions in the human life? What is the reason behind such changes like childhood, adolescence, adulthood, health, sickness, birth, death, happiness, sorrow, tranquility, suffering, etc. and what is the mode of getting out of this cycle? In the entire individual and collective human life this is the only question the Buddha found to be worthy of his attention and he closed his eyes to all other issues pertaining to the beliefs and practical aspects of human life.

After meditating many years on this basic question, he finally reached the conclusion that the human life is intrinsically a suffering in which man has got afflicted, and the changes through which he goes through from birth till death are all manifestation of this suffering. Man's coming into the world has no purpose. His creation is a frivolity and an absurdity, and bearing afflictions and sufferings is the only task which has been assigned to him. Actually there is no pleasure, tranquility or peace for him here in this world, because behind tranquility there is suffering, behind every delight there is a misery, and behind every birth there is death, and all these changes are subordinated to a perpetual process of changes and alterations which in itself is a suffering. This, the Buddha called the First Noble Truth – The Truth of Misery/Suffering (Dukkha).

Why is man afflicted with this suffering? The answer that the Buddha gave to this question is that desire/craving, sensuality and consciousness afflict man with the sufferings of life. These are the forces of self because of which man gets attached to the world and this very attachment brings him again and again into this world; he is transmigrated



from one body to another; he is taken from one form to another; and is dragged from one life to another, and as long as this noose of desire and craving is not removed from his neck he cannot obtain deliverance from the cycle of dying again and again and taking birth again and again in one form or the other. This, the Buddha called the Second Noble Truth – The Truth of the Origin of Misery/Suffering (Samudāya).

Then, how to obtain deliverance from this suffering and this cycle of life? The Buddha has solved this question with just one word – “*Nirvana*.” He says that when life is a suffering, and desire and craving is the root cause of this suffering, then the real tranquility and peace for man is in his complete extinction and in his non-existence, which can be obtained only by completely annihilating the desire, sensuality and the consciousness. Man should get detached from the attachments of the world; any love and desire for a thing, any relish of a pleasure, in short, his heart should not get attracted to anything of this world, and he should annihilate all his passions, sensualities and desires in such a fashion that there should not remain any attraction and attachment to this world which could become a cause for his return to this world again. In this manner, getting free from the prison of “existence” he will enter the state of nonexistence or nothingness. This is “*Nirvana*,”<sup>1</sup> and this, according to the Buddha, is or should be the ultimate goal of man, and this, he called the Third Noble Truth – The Truth of the Cessation of Misery/Suffering (Nirodha).

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<sup>1</sup> There is disagreement between the scholars as to the meaning of the word *Nirvana*. According to Hermann Oldenberg, Rhys Davids and others it is that state of the self where having got liberated from all sins and cravings/desires and having achieved complete detachment from the worldly life it obtains complete peace and tranquility. But Max Muller and others do not confine themselves with this vague definition and clearly state that it means complete annihilation of man or getting fully liberated from the shackles of the existence.

Now the fourth question is: what are the modes of achieving *Nirvana*?<sup>1</sup> After reaching this point, Buddhism takes a practical form. The Buddha says that by following the Eightfold Path, which he calls the Fourth Noble Truth – The Truth of the Path to the Cessation of Misery/Suffering (*Magga*) – one can achieve *Nirvana*.

In the first two Noble Truths the Buddha has diagnosed the problem (suffering) and identified its cause. The third Noble Truth is the realisation that there is a cure. The fourth Noble Truth, in which the Buddha sets out the Eightfold Path, is the prescription, the way to achieve a release or *Nirvana* from suffering, which is as follows:

1. Right Belief – *Sammā ditthi*: Acquiring knowledge and understanding well the aforesaid Four Noble Truths.
2. Right Resolve – *Sammā saṅkappa*: The resolve to renounce sensual pleasures, the resolve to have malice towards none, and the resolve to harm no living creature.
3. Right Speech – *Sammā vācā*: To abstain from falsehood, to abstain from backbiting, to abstain from harsh language, and to abstain from frivolous talk.
4. Right Behaviour – *Sammā kammanta*: To abstain from destroying life, to abstain from talking that which is not given, and to abstain from immorality.
5. Right Occupation – *Sammā ājīva*: Quitting a wrong occupation and getting a livelihood by a right occupation.
6. Right Effort – *Sammā vāyāma*: To act according to religious decrees.
7. Right Contemplation – *Sammā sati*: To remember previous actions.

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<sup>1</sup> These four problems, i.e. suffering, origin of suffering, cessation of suffering, and the path to the cessation of misery, in the terminology of Buddhism are called Noble Truths (*Arya Sathya*).

8. Right Concentration — *Sammā samādhi*: Having isolated himself from sensual pleasures, concentrate on achieving Nirvana.

Prior to treading on the Eightfold Path, the Buddha has ordained other ten commandments which are to be strictly followed. The first five of these commandments are binding and mandatory for every Buddhist, although the fifth commandment is often not observed, because it bans the consumption of intoxicants. The whole ten are binding on the novices who want to enter the Bhikshu brotherhood, and in their case the third commandment means absolute celibacy. But the pious common Buddhist may take upon himself three more in addition to the first five on Buddhist festival days. These ten commandments are as follows:

1. Abstinence from destroying life.
2. Abstinence from stealing.
3. Abstinence from impurity.
4. Abstinence from lying.
5. Abstinence from arrack and strong drinks and intoxicating liquors, which causes indifference (to religion).
6. Abstinence from eating at forbidden times.
7. Abstinence from dancing, singing, music, and seeing spectacles.
8. Abstinence from garlands, scents, unguents, ornaments, and finery.
9. Abstinence from (the use of) high or broad beds.
10. Abstinence from accepting gold or silver.<sup>1</sup>

The aforesaid Eightfold Path and the ten commandments are the foundation of ethical system of Buddhism. The foundation stone of the teachings about the social and economical life prescribed by the Buddha for his followers is "self-mortification" and "asceticism," because

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<sup>1</sup> Davids, T.W. Rhys & Oldenberg, Hermann, *Vinaya Texts*, Part I, Mahavagga, I: 56, p. 211, (Oxford, 1881).

without self-mortification his ultimate goal "Nirvana" cannot be achieved. Therefore, to annihilate self he has prescribed very strict and harshest abstinences and ascetic practices; for example: plucking off of the hair of the beard, moustaches and the head in order to annihilate the sense of beauty; always retaining a standing posture; reclining on a bed of thorns or nails; always sleeping only on one side of the body; rubbing the whole body with dust, and such other kinds of practices which could weaken the soul and destroy the senses by afflicting the body with extreme pain and afflictions. Apart from these, the Buddha has passed similar ordinances about leading a normal life. Here, it is very difficult to give all the details in this regard, as these are spread over many volumes. However, a few of them are quoted here:

The Buddha has prescribed four interdictions for the newly-ordained Bhikshus which are as follows:

1. Abstaining from sexual intercourse.
2. Abstaining from theft even of a blade of grass.
3. Abstaining from killing intentionally a living thing even a worm or an ant.
4. Abstaining from attributing to himself any superhuman condition.<sup>1</sup>

For those Bhikshus who have passed through preliminary ascetic practices, the Buddha has prescribed the following practices:

1. Wearing Rags Found in the Dust (*Pamsukula*): This refers to an injunction to wear garments made of rags picked up in graveyards, on dunghills, or by the roadside,<sup>2</sup> and even such garments should not be more than three at a time.

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<sup>1</sup> *Vinaya Texts*, Part I, Mahavagga, I: 78:5, p. 235-236

<sup>2</sup> There is an incident in the Buddha's life in this regard, which Saint-Hilaire describes thus: "The clothes the hunter had formerly ceded to him [the Buddha] had fallen in tatters; they had been his only covering for the last six years... It became necessary to renew those garments, and this is the way in which... he

2. Should not earn his livelihood. Instead should collect food in a wooden bowl by begging. In Buddhism acquiring one's livelihood by begging is the noblest and purest livelihood.<sup>1</sup>
3. Should not build a house for dwelling; should dwell in a forest and seek protection under the shade of trees.<sup>2</sup>
4. If fallen ill, should not take any medicine, except decomposed urine.<sup>3</sup>
5. Should not try to keep one's body clean; at the most it is permitted to take bath once in a fortnight.<sup>4</sup>
6. Should not keep any money; should not engage in any business transactions in which gold and silver are used.<sup>5</sup>
7. Not to use a good bed; should keep just an old and coarse blanket which should be used at least for six years.<sup>6</sup>

#### 4. The Actual Weakness of Buddhism

This is a gist of the entire ethical system of Buddhism, of which the teaching of Ahimsa is a part. No doubt, there are many excellent ethical teachings in this system. It

replaced them. Sujata, the daughter of the Chieftain of Uruvela who had been so devoted to him, and who ... continued to bring him food, had a slave called Radha who had just died. The woman had been buried in a neighbouring cemetery, and her body had been wrapped in a coarse linen cloth (sana). A few days after her burial Siddhartha [i.e. the Buddha] opened the grave and took the shroud. Then 'in order to show what a monk must do,' he washed in a pool the earth-stained shroud, and fashioned and sewed it with his own hands. The place where he sat at that time was afterwards called Pansukula-Sivana, that is 'the sewing of the shroud.'" [Saint-Hilaire, J. Barthelemy, *The Buddha and his Religion*, Chapter I, p. 50, (London, 1895)]

<sup>1</sup> The Buddha himself used to go and beg for his daily food, and that is the reason he used to call his followers Bhikshus (i.e. beggars) and call himself Maha Bhikshu (the Great Beggar). (Saint-Hilaire, J. Barthelemy, *The Buddha and his Religion*, Chapter III, p. 101, (London, 1895))

<sup>2</sup> *Vinaya Texts*, Part I, Mahavagga, I: 30:4, p. 174.

<sup>3</sup> *Vinaya Texts*, Part II, Mahavagga, VI: 14:4-7, p. 55-61.

<sup>4</sup> *Vinaya Texts*, Part I, Chapter, Pakittiya Dhamma: 57, p. 44.

<sup>5</sup> *Vinaya Texts*, Part I, Chapter, Nissaggiya Pakittiya Dhama: 18, 19, 20, p. 26-27.

<sup>6</sup> *Vinaya Texts*, Part I, Chapter, Nissaggiya Pakittiya Dhama: 11 & 14, p. 24 & 25.

would be a great injustice if we do not appreciate the virtuous and pious nature of the teachings which the Buddha has taught and has set his lofty life as a complete model of his teachings. But in spite of it having many excellent subsidiary laws and regulations, the basic principles of the entire system are flawed from the beginning to the end. Its foundation has been set on a wrong belief; its ideology with regard to the human life is wrong; it has viewed man and his life from a wrong angle; it has set a wrong place as man's destination; and has suggested a wrong path to reach that destination.

In reality, the Buddha seems to have got perplexed with the changes and misfortunes occurring in the world and in man's life. He does not try to understand the basic reason behind them; he does not try to go deep and investigate them, nor does he try to reach a loftier goal or destination after courageously confronting them. On the contrary, he studies them superficially and after viewing them cursorily, reaches the conclusion that the human life is useless; this whole structure of the world is meaningless; and the series of changes, revolutions and alterations taking place in the world are without any cause or reason or any purpose, and the only purpose is to torment and tyrannize man. The only purpose of bestowing man with intellect, senses, perception, consciousness, passion, desires, physical strength and all other powers is to afflict him with misfortunes and calamities and no other better purpose can be achieved through these powers. World's wealth and riches, its civilization, its culture, its politics, its governance, its trade and industry, in short, all its businesses and commercial activities are useless. These are the snares of attachments which bring back man into the world again and again and keep him entangled in the permanent cycle of transmigration. Hence, there is no other task for man except that he should cut off all external attachments except his self, and even annihilate his self by

denying it every kind of pleasure and inflicting upon it every kind of torture to such an extent that it escapes from the prison of "life" and "existence" and enter into the borders of "non-existence" and "nothingness."

Now, it is very apparent that any person who, being afraid and fearful of the sufferings of the world abandons the world itself, worries about his own salvation after getting detached from its collective attachments, and to reach the goal of salvation or non-existence adopts that path which does not pass through the world but by-passes it, cannot be expected in any event that he would struggle bravely and courageously for the welfare and betterment of his family, his nation, his country and his fellow human beings, spend his mental faculties, and intellectual and material resources in the reformation and upliftment of the society, would raise the banner of justice, peace and truth by waging a courageous war with determination against oppression, aggression, mischief, anarchy, lawlessness, depravity and wickedness, and would confront in a manly manner all those difficulties and hardships that naturally come in the way of every man who tries to accomplish any task. This struggle, this zeal, this intrepidity, the hardships of the battlefield, the injuries sustained from weapons, the heavy responsibilities of politics and governance can be borne only by that person who perceives this world as a place for action, who has a lofty goal and objective of life in his sight, who views himself as having been appointed for a very important service and that he is answerable before a Loftier Entity, and who firmly believes that the more he performs in this world and in this life, the more he would be rewarded in his future permanent life. Otherwise, a helpless man who is already dejected with his life; who is disappointed with the results of his actions; who is heart-broken with the sufferings and difficulties of his surroundings; who is taking shelter in the embrace of "non-existence" fearing every catastrophe occurring in the world,

frightful of every calamity, terrified of every change, cannot be expected that due to his cowardice, spinelessness, and irresolution would bear the aforesaid heavy burden of responsibilities and just simply afflict his life with the afflictions of war, Jihad, politics and governance. When he has already abandoned the affairs of the world and has set death and permanent death as his ultimate goal, why should he go out in the practical field with arms in his hands and waste his time in organizing and administering the world whose life he perceives as useless and its whole structure to be meaningless and insignificant.<sup>1</sup>

Hence, the reason for Buddhism's belief in Ahimsa is not that it accepts the responsibilities of the world and its affairs, and in spite of this it considers war and bloodshed unnecessary; rather, the actual reason is that it does not have any concern or interest in the world and its affairs. Therefore, naturally, it avoids war. It has adopted Ahimsa because the sword and arms have no place in the belief of abandonment of the world and the life of asceticism, and they do not help to reach that destination which is the ultimate goal of a Buddhist Bhikshu.

## **5. Effects of Ahimsa on the Life of the Followers of Buddhism**

The result of this teaching of Buddhism is that it could not establish a powerful civilization in this world. It could never create such a force or power which could establish its own civilization after defeating any other civilization. In whichever country it penetrated, it was, no doubt, successful in creating a negative change in its ethical life, but it could not succeed in establishing a better system after changing the existing systems of politics and civilization, nor did it try to do so. No doubt it gained lot of propagation

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<sup>1</sup> The teaching of asceticism in Buddhism has not been discussed here, because later on we have to discuss the same issue in the chapter dealing with Christianity; hence it has been left out here.



in the world. No other religion can claim to have ascended as rapidly as Buddhism did in the Far East and in the Central Asian region; a large number of people of these regions accepted Buddhism. But in the human history we do not find even an example that through the influence of Buddhism any great revolution took place in any of the nations of the world, or it has achieved something spectacular in the arena of the world. On the contrary, we see that wherever it was confronted with a better and powerful civilization, it had to face terrific defeat.

India, which is its land of birth, had followed Buddhism for a long period of time. In the 1<sup>st</sup> Century A.D., nearly the entire country followed it; in the 3<sup>rd</sup> Century A.D. too nearly two-third of its population was Buddhist. When Fa Hien (a Chinese Buddhist monk and traveler) came to India in the 4<sup>th</sup> Century A.D. then too Buddhism was the dominant religion. But, after that when the traditional Hindu religion woke up, Buddhism had to vacate the arena for it within a period of three centuries, and it got obliterated to such an extent that today<sup>1</sup> out of a population of 320 million, we can hardly find about 300-400 thousand Buddhists in India.<sup>2</sup>

Similarly, in Afghanistan, because of the influence of Emperor Asoka, Buddhism was propagated extensively and in the 2<sup>nd</sup> Century A.D. the King of Afghanistan, Menander

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<sup>1</sup> Remember, this book was written in 1927. According to 2001 census, the Buddhist population in India was 7.9 million i.e. 0.8% of the total population of India. [Translator]

<sup>2</sup> Rhys Davids in his book *Buddhist India* (published in 1911), while discussing the decline of Buddhism, has tried to prove that the followers of Hinduism did not annihilate Buddhism with the use of force. [See pages 318-320.] If we accept this historical research to be true then it is a stronger proof of the weakness of Buddhism. Getting annihilated with the force of arms is proof of material weakness. But getting obliterated through peaceful confrontation is a clear proof that on the spiritual and intellectual level too it was weak against the Hindu religion.

(also known as Milinda) embraced Buddhism.<sup>1</sup> But when it was confronted by the powerful Islamic civilization, it could not survive for long. In China, Buddhism survived because it got blended well with Taoism since the character of Taoism was somewhat similar to Buddhism;<sup>2</sup> otherwise, Confucianism had completely annihilated it. In Japan it had to compromise with Shintoism inasmuch as it had to change its fundamental beliefs in order to survive.<sup>3</sup> As regards the other countries like Ceylon (Sri Lanka), Burma (Myanmar), Tibet, and others there was no dominant civilization in these countries to confront Buddhism, and therefore it dominated them. But it is evident from the world history that it could never breathe in these countries any new spirit of culture and civilization; as they were lifeless and inactive before the advent of Buddhism, they remained so during the reign of Buddhism too.

Further, it is an irrefutable fact that Buddhism never had the courage to confront any government or kingdom and change the decadent and debased system of the society. In the structure of Buddhism, politics has no place at all. Instead of taking part in the government or changing it, Buddhism has ordained to obey the kings, in all circumstances, whether they be just or tyrannical.<sup>4</sup> Not only this, it has such a teaching of adopting feebleness and abject humility while confronting the evil powers and meekly and indifferently bearing the acts of oppression that its followers cannot even utter a word on passing through any horrific acts of oppression and tyranny. The Buddha's dictum is that all the sufferings and calamities faced by man in his life are the result of his sins committed by him

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<sup>1</sup> A. Smith, Vincent, *The Early History of India*, p. 225 (Published in Oxford, 1914).

<sup>2</sup> Hackmann, Heinrich Friedrich, *Buddhism as a Religion*, p.83 (1910).

<sup>3</sup> *Ibid*, p. 90-91.

<sup>4</sup> Davids, T.W. Rhys & Oldenberg, Hermann, *Vinaya Texts*, Part I, Chapter, Mahavagga, III: 4: 3, p. 301 (Oxford, 1881)

in his former life. Hence, when someone oppresses him, he should not blame the oppressor but blame himself that he must have committed a sin in his previous birth for which he is being punished here.<sup>1</sup> This religious belief, after chilling the sense of honour and revenge, creates such a passive attitude in the followers of the Buddha that they gladly bear every kind of oppression, tyranny, insult and ignominy.

Hence, it is apparent that for a tyrannical government this is a most welcomed situation and attitude. This kind of religion, instead of being a threat to its existence, becomes a source of its strength and consolidation. The subjects of a country or a kingdom who believe in these kinds of beliefs can be subjugated to every kind of oppressive and tyrannical laws and ordinances; they can be robbed through every kind of taxes and corrupt practices; their honour, their wealth, their properties can be attacked and looted; and they can be utilized in every way for the fulfilment of the evil desires of their tyrannical rulers. This is the reason that Buddhism very seldom confronted any government or ruler. Rather, in most of the countries, the rulers and the governments instead of confronting Buddhism welcomed it enthusiastically and offered every kind of help and assistance in its propagation. The King of Magadha, Seniya Bimbisara, at the very beginning of the call of the Buddha welcomed him with open arms<sup>2</sup> and issued an ordinance in support of his religion.<sup>3</sup> After King Bimbisara, his son Ajatasattu too was a devotee of the Buddha and was a devoted supporter of Buddhism. The King of Kosala, Pasenadi (whose real personal name was Agnidatta), also

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<sup>1</sup> Saint-Hilaire, J. Barthelemy, *The Buddha and his Religion*, Chapter V, p. 150-151, (London, 1895)

<sup>2</sup> Davids, T.W. Rhys & Oldenberg, Hermann, *Vinaya Texts*, Part I, Chapter, Mahavagga, I: 22:4, p. 137 (Oxford, 1881)

<sup>3</sup> Davids, T.W. Rhys & Oldenberg, Hermann, *Vinaya Texts*, Part I, Chapter, Mahavagga, I: 42:1, p. 197.

embraced Buddhism, invited the Buddha to visit his country, and to cultivate more closer relationship with the Buddha married a girl from Sakya family.<sup>1</sup>

In the 3<sup>rd</sup> Century B.C., Emperor Asoka patronized Buddhism and utilizing all his royal resources not only propagated it within and outlying areas of India, but also caused it to spread in distant countries too. Then in the 1<sup>st</sup> Century A.D., King Kanishka vigorously patronized it. After him, in the 3<sup>rd</sup> Century A.D., Emperor Vikramaditya-I, in spite of being himself a Hindu, patronized Buddhism and rendered all possible help to it. In the 7<sup>th</sup> Century A.D., the Buddhism received patronage of another powerful Indian king, Harsha, who extended such a strong support to it that the Brahmanas plotted to kill him.<sup>2</sup> Outside India, in Tibet and Mongolia, Kublai Khan spent all his power in the propagation of Buddhism, as he thought it politically beneficial to his kingdom.<sup>3</sup> In China, Emperor Ming-Ti himself ordered preachers of Buddhism to be brought into his empire to preach Buddhism;<sup>4</sup> after him most of the kings extended support to Buddhism. This condition prevailed in other countries too which can be ascertained by studying the history of the concerned era.

Hence, the ascendancy that the Buddhism got and its survival during series of revolutions in the past centuries was not because that it possessed any strong culture and civilization or its life force was very strong; rather, the real reason is that it always used to bow its head in submission before tyrannical and oppressive regimes. It never had the courage to confront tyranny and leave alone liberating the humanity from the clutches of evil and tyrannical rulers, it never even thought about it. Therefore, every government

<sup>1</sup> Davids, T.W. Rhys, *Buddhist India*, p. 10-11 (London, 1911).

<sup>2</sup> Smith, Vincent A., *The Early History of India*, p. 349 (Oxford, 1914).

<sup>3</sup> Hackmann, Heinrich Friedrich, *Buddhism as a Religion*, p. 73-74 (1910).

<sup>4</sup> Hackmann, Heinrich Friedrich, *Buddhism as a Religion*, p. 77 (1910)

and ruler always extended its support to it and considered its existence beneficial for its predominance, tyranny and coercion.

From this brief commentary, it can be clearly understood the kind of difference that exists between Islam and Buddhism concerning the issue of war. Islam considers that man has been created in this world for a great purpose and that his salvation depends on utilizing this world in the best manner possible. Therefore, it ordains man to adopt every such means of action which is necessary and beneficial for the emancipation and better organization of his own and his fellow human beings' ethical, spiritual and material life. Contrary to this, according to Buddhism, man's life has no purpose at all and his salvation entirely depends upon his severing himself from all attachments of this world and even severing the attachment to his own self. Therefore, it does not permit its followers to take up active struggle or intellectual interest which could result in the establishment of an attachment or connection with any worldly thing. Now, a sound intellect can easily judge whether Jihad in Islam is more beneficial to the humanity or the Ahimsa of Buddhism.

#### IV. CHRISTIANITY

Another religion which has basic difference with Islam as regards war is Christianity.<sup>1</sup> As with Judaism, our only source of information about Christianity is the single book

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<sup>1</sup> Here, the term Christianity does not imply that religion which was originally taught by Prophet Jesus (peace be upon him); rather it means that religion which has been ascribed to Prophet Jesus. We have got strong evidence that Prophet Jesus did not teach the present-day Christianity; rather he had brought the same religion of Islam which Prophets before him had brought, which later was brought by Prophet Muhammad (peace be upon him). Later we are going to describe some of these evidences. Here, we would like to caution our readers that the discussion here about Christianity is not actually about the religion of Jesus as originally preached by him, but is about that religion which has been formed in the name of Jesus by others.

which the Christian world accepts as the basic book of its religion, and that is the Gospel. But before posing our questions to the Gospel about the subject-matter under discussion, it is necessary to make it clear that we can find out from this book, as it exists today, only about the beliefs of the present-day Christianity; otherwise, this book does not help solve the question as to what were the real teachings of Prophet Jesus. Since to understand the ensuing discussions, it is necessary to understand this matter, we will just scan over the historicity of the books comprising the Gospel before proceeding further.

### **1. Investigation of the Source**

The compendium which today is called the Gospel is comprised of four books – Matthew, Mark, Luke and John. But not even one of them is by Prophet Jesus. As in the Holy Quran all the Verses revealed on Prophet Muhammad (peace be upon him) from Allah have been collected together in one volume, we do not find in any of the four books of the Gospel all those verses revealed on Prophet Jesus together in one place. Then again, we do not find those sermons and teachings in the words of Prophet Jesus which he had delivered on different occasions in his life as a Prophet of Allah. These books which have reached us are neither the Word of God nor the word of Prophet Jesus; rather they were all written not even by the immediate disciples of Prophet Jesus, but the pupils of his disciples, who according to their knowledge and intellect have collected the particulars about the life of Prophet Jesus and his teachings.

Moreover, these books themselves have such an unknown origin that they cannot be trusted upon. The first book is ascribed to Matthew, the disciple of Prophet Jesus, and it is historically proved that it was not written by Matthew. The original book of Matthew, known as Logia, is non-existent. The author of the book that is ascribed to

Matthew is an unknown person who, apart from other books, has also used Logia as his source. Matthew has been mentioned in this book as an unknown person is usually described.<sup>1</sup> Moreover, from its study we find that its contents are mostly taken from Mark's Gospel, because out of its 1071 verses, 470 are exactly the same which appear in the Mark's Gospel, whereas if its author were to be Matthew, the disciple of Jesus, he would never have referred to a book written by a person like Mark who was neither a disciple of Jesus nor had he ever met him. The Christian scholars are of the opinion that this book had been written 41 years after Jesus in 70 A.D. and some think that it is a work of 90 A.D.

The second book is ascribed to Mark, and it is generally believed that Mark himself is its author. But it is proved that he never met Jesus, nor was he his disciple.<sup>2</sup> He was actually the disciple of St. Peter and whatever he used to hear from him, he used to write it down in Greek language. Therefore, the Christian scholars generally call him the "interpreter of St. Peter." It is believed that it was written between 63 and 70 A.D.

The third book is ascribed to Luke, and it is beyond any doubt that Luke never saw Prophet Jesus nor did he learn from him. He was the disciple of St. Paul and was always in his company and has interpreted St. Paul's thoughts in his Gospel. Hence, St. Paul himself calls Luke's Gospel as his Gospel. But it is a proved fact that St. Paul himself was deprived of the company of Prophet Jesus and as per Christian narratives, he embraced Christianity six years after the incident of crucifixion. Therefore, one

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<sup>1</sup> It is written in Mathew, 9:9: "As Jesus passed on from there, He saw a man named Matthew sitting at the tax office. And He said to him, "Follow Me." So he arose and followed Him." It is apparent that an author of a book does not describe himself in this fashion.

<sup>2</sup> Some are of the opinion that when Jesus was being crucified he was present as a spectator; but there is no evidence to prove this.

link of chain of narratives between Luke and Prophet Jesus is missing. Even the date of its authorship is unknown; some say that it was written in 57 A.D. and some say that it was written in 74 A.D. and a few others are of the opinion that it was not written before 80 A.D.

The fourth book which is called John's Gospel, according to recent research, was not authored by the renowned disciple of Jesus, John, but another unknown person named John whose biography is in the dark. This book was written somewhere between A.D. 90 and A.D. 110. The author of this Gospel has also used Mark's Gospel as its main source.

It is apparent that the chain of narration of even one of the aforesaid four books cannot be traced back to Prophet Jesus, and based on their authority it cannot be said with complete confidence what Prophet Jesus had preached or taught and what he did not.<sup>1</sup> Also, when we go deep into them, their documentary status becomes even more suspect.

Firstly, there are differences in the texts of the four Gospels. Even the Sermon on the Mount, which is the foundation of the Christian teachings, has been reported only in Mathew, and Luke reports it differently as Sermon on the Plain; the other Gospels of Mark and John are silent about this sermon. Further there are lot of differences and contradictions in the narration.

Secondly, in all the four Gospels the thoughts and impressions of their respective authors are quite evident. Mathew's addressees seem to be the Jews and he is seen arguing against them. Mark addresses the Romans and he wants to inform them about Jewish customs and observances. Luke is the advocate of St. Paul and wants to support the claims of St. Paul as against the other disciples of Jesus. John seems to be unduly impressed by the

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<sup>1</sup> Actually, these books, as far as their authenticity is concerned, leave alone the Holy Quran, cannot equal even the weakest collections of Prophet's Muhammad's sayings.



philosophical and ascetic thoughts that had spread amongst the Christians during the end of 1<sup>st</sup> century AD. Hence, we find more differences between the four Gospels with regard to the meaning than the wordings.

Thirdly, all the Gospels have been written in Greek, whereas the language of Prophet Jesus and all his disciples was Aramaic. It is but natural that differences would bound to arise in the interpretation of the thoughts when they are translated from one language to another.

Fourthly, the Gospels were never tried to be put into writing before the second Century A.D. Till 150 A.D. it was the popular belief that oral traditions are more beneficial than the written ones. It was only at the end of 2<sup>nd</sup> Century AD that the perception of writing began to take shape. Moreover, the writings of that age were not believed to be authentic. Since there were many versions of the Bible current, the Third Council of Carthage in the year 397 B.C. took up the issue and approved the books that should form the New Testament as well as the Old Testament.

Fifthly, the oldest copy of the Gospels available today is of the middle of the fourth Century A.D. Another copy is of fifth Century and the third incomplete one which is in the library of the Pope is not older than the fourth Century A.D. Hence, it is very difficult to say how far the current Gospels are in concordance with the Gospels and other books which existed in the first three centuries of the Christian era.<sup>1</sup>

Sixthly, the Gospels were never tried to be memorized as the Holy Quran was memorized from the very beginning. Their propagation, in the beginning, was dependent on just describing their purport and not their exact words, and thus confusion of memory and personal

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<sup>1</sup> Dummelow, John Roberts, *A Commentary on the Holy Bible*, p. xv, (New York, 1909), Encyclopedia Biblica Millman, History of Christinity.

impressions of the narrators naturally affected such narrations. Afterwards, when writing of the Scriptures was taken up, they were on the mercy of the scribes and copyists. While copying it was very easy and convenient for anyone to delete a thing which he found to be against his personal beliefs and make additions where he thought there was some deficiency.<sup>1</sup>

Based on the aforesaid reasons, we cannot say with confidence that we can get the original teachings of Prophet Jesus from the current four Gospels or the other books forming the New Testament. Hence, in the ensuing pages whatever will be said would not be about that religion which was originally propagated by Prophet Jesus, but would be about that religion which today's Christian world believes in.

## 2. Teaching concerning "Love"

From the study of the Gospels, it is understood that Christianity is strictly against war, whether it is waged for the truth or the untruth. According to Christ, the greatest ordinance of the religion is that: "You shall love the Lord your God with all your heart, with all your soul, and with all your mind. This is the first and great commandment. And the second is like it: You shall love your neighbour as yourself" (Matthew, 22:37-39). And along with this love it is also essential that "One should not get angry with his brother" (Matthew, 5:22). However, Christ just does not confine himself to instruct to love and not to get angry, but he instructs that a true Christian should bow his head against tyranny and mischief, and leave alone protecting others should not try to protect his own rights. The crown of the teachings of Christ is the Sermon on the Mount on

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<sup>1</sup> Mosheim, John Laurence, *Ecclesiastical History, Ancient and Modern*, Vol. I, p.65, (Baltimore, 1842)

which the foundation of Christian ethics has been based; he preaches therein:

*"You have heard that it was said, 'An eye for an eye and a tooth for a tooth.' But I tell you not to resist an evil person. But whoever slaps you on your right cheek, turn the other to him also. If anyone wants to sue you and take away your tunic, let him have your cloak also. And whoever compels you to go one mile, go with him two. Give to him who asks you, and from him who wants to borrow from you do not turn away. You have heard that it was said, 'You shall love your neighbour and hate your enemy.' But I say to you, love your enemies, bless those who curse you, do good to those who hate you, and pray for those who spitefully use you and persecute you." (Matthew, 5:38-44)*

In the Sermon on the Plane, Christ preaches thus:

*"But I say to you who hear: Love your enemies, do good to those who hate you, bless those who curse you, and pray for those who spitefully use you. To him who strikes you on the one cheek, offer the other also. And from him who takes away your cloak, do not withhold your tunic either. Give to everyone who asks of you. And from him who takes away your goods do not ask them back. And just as you want men to do to you, you also do to them likewise. But if you love those who love you, what credit is that to you? For even sinners love those who love them." (Luke, 6:27-32)*

This teaching is the very basis of Christianity, and its objective is quite evident from its wording. It clearly mentions that a true Christian who wishes to "be perfect, just as the Father in heaven is perfect" (Matthew, 5:48) and whose goal is to become one of the "sons of the Most High" (Luke, 6:35), should never confront tyranny and mischief with force; rather should surrender all his rights voluntarily before the tyrants and mischief-mongers.

### 3. Ethical Philosophy of Christianity

The goodness and badness of this teaching cannot be assessed until and unless the spirit behind Christianity is not fully understood.

When we study the form in which Christianity has reached us, we find that it essentially is a religion of asceticism and monasticism. In this religion no constitution, no law, nor any kinds of rules and regulations have been formulated for man's social life. It does not tell man about his personal rights, rights of his family, his community, his nation, his other fellow-men and his God, and about the proper ways and means of discharging these rights. It does not tell us the usages of the natural resources and physical and intellectual faculties which Allah has endowed on man, and how man has to utilize them. It does not discuss the aforesaid issues which pertain to man's practical life. Its attention is just centred on only one issue and that is, how man can enter the "heavenly kingdom." This question is the axis of the entire Christian ethics, and the real purpose of Christ's teachings is to prepare man to reach this goal.

But "heavenly kingdom," in the sight of Christianity, is not the progressive form of the "earthly kingdom." It does not recognize the relationship of seed and fruit between these two; rather it believes in contradiction and complete incompatibility between the two. In its sight, earthly kingdom and heavenly kingdom are two different things, and as water and fire are incompatible so also these two cannot come together. The natural result of perceiving these two things as contradictory to each other is that Christianity adopts quite a different path to achieve the heavenly kingdom than the one which is adopted for earthly kingdom. Everything which is intrinsic to the earthly kingdom is extrinsic to the heavenly kingdom; not only it is extrinsic but its mere existence prevents man from entering the heavenly kingdom. Therefore, Christianity warns man, at every step, that if he desires to enter the heavenly kingdom, he has to fully refrain from possessing the material things of the earthly kingdom, and if he cannot do so, then he should give up hope of entering the heavenly

kingdom. Based on this principle, it teaches monasticism in all facets of human life, and by detaching man fully from human society and civilization leads him to adopt complete self-mortification. To explain this, it is enough to quote here some of the ordinances of Christ in this regard:

*"If anyone comes to me and does not hate his father and mother, wife and children, brothers and sisters, yes, and his own life also, he cannot be my disciple." (Luke, 14:26)*

*"Do you suppose that I came to give peace on earth? I tell you, not at all, but rather division. For from now on five in one house will be divided: three against two, and two against three. Father will be divided against son and son against father, mother against daughter and daughter against mother, mother-in-law against her daughter-in-law and daughter-in-law against her mother-in-law." (Luke, 12:51-53)*

*"Heal the sick, cleanse the lepers, raise the dead, cast our demons. Freely you have received, freely give. Provide neither gold nor silver nor copper in your money belts, nor bag for your journey, nor two tunics, nor sandals, nor staffs; for a worker is worthy of his food." (Luke, 10:8-10)*

*"Do not fear, little flock, for it is your Father's good pleasure to give you the kingdom. Sell what you have and give alms; provide yourselves money bags which do not grow old, a treasure in the heavens that does not fail, where no thief approaches no moth destroys." (Luke, 12:32-33)*

*Then Jesus said to his disciples, "Assuredly, I say to you that it is hard for a rich man to enter the kingdom of heaven. And again I say to you, it is easier for a camel to go through the eye of a needle than for a rich man to enter the kingdom of God." (Matthew, 19:23-24)*

*Jesus said to him, "If you want to be perfect, go, sell what you have and give to the poor, and you will have treasure in heaven;<sup>1</sup> and come, follow me." (Matthew, 19:21)*

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<sup>1</sup> According to the concurring passages in Matthew, Mark and Luke, Christ gave this direction to a rich young ruler who always followed the Biblical commandments to desist from murder, adultery, theft, and bearing false witness; to honour and serve his parents and love his neighbour as himself. To

*"Do not lay up for yourselves treasures on earth, where moth and rust destroy and where thieves break in and steal; but lay up for yourselves treasures in heaven, where neither moth nor rust destroys and where thieves do not break in and steal." (Matthew, 6:19-20)*

*"For if you forgive men their trespasses, your heavenly Father will also forgive you. But if you do not forgive men their trespasses, neither will your Father forgive your trespasses." (Matthew, 6:14-19)*

*"Therefore I say to you, do not worry about your life, what you will eat or what you will drink; nor about your body, what you will put on. Is not life more than food and the body more than clothing? Look at the birds of the air, for they neither sow nor reap nor gather into barns; yet your heavenly Father feeds them. Are you not of more value than they? Which of you by worrying can add one cubit to his nature? So why do you worry about clothing? Consider the lilies of the field, how they grow: they neither toil nor sin; and yet I say to you that even Solomon in all his glory was not arrayed like one of these. Now if God so clothes the grass of the field, which today is, and tomorrow is thrown into the oven, will He not much more clothe you, O you of little faith? Therefore do not worry, saying, 'What shall we eat?' or 'What shall we drink?' or 'What shall we wear?'" (Matthew, 6:25-31)*

From the aforesaid sayings it is apparent that the way in which Christianity wants to train humanity in order to take it towards the heavenly kingdom is based on complete severance from human society and civilization. Everyone knows that family attachments are the foundation of social life. Man's initial and primary relationship with the society develops through the ties with his relatives. Through their mutual relationships a social structure is shaped, and in fact, it is also the best school of ethics for man. But the first strike of Christ's sword falls on this very primary principle,

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such a pious person, Jesus said that he would achieve perfection only when he sells off all his wealth and riches and gives them to the poor. [Refer: Matthew, 19:16-22; Mark, 10:17-22; Luke, 18:18-23]

and at the very outset, it cuts off the relationship which keeps man attached to the society. The very first thing that forces man to act and use the world and take part in its affairs is the concern to fill his belly and cover his body. But Christ wants to kill this very initial concern and wants man to lead a life similar to the life led by wild birds and lilies. It is inevitable to acquire wealth and riches for the comfort of man and his individual and collective prosperity. But according to Christ, it is essential to give up the world in order to achieve spiritual progress and to enter the heavenly kingdom. Establishment of the system of peace and justice in the world is dependent upon the laws of politics, chastisement, requital and revenge. But Christ says that the heavenly Father would not grant you salvation unless and until the entire law of retribution is not completely suspended or terminated. In short, in the sight of Christ religiosity means renunciation of the world. A person who does not renounce the world, does not sever the societal attachments, does not abandon worldly affairs, and does not lead a life of complete renunciation and celibacy has no place in the heavenly kingdom; man cannot enter simultaneously both the kingdoms. It is impossible for him to acquire both the spiritual/religious world and the material world. Christ says: "No one can serve two masters; for either he will hate the one and love the other, or else he will be loyal to the one and despise the other. You cannot serve God and mammon."<sup>1</sup> These two are contradictory things and any person who is desirous of one has to give up the desire of the other.

Just to gauge the shade in which the Christian scholars present the teachings of Christ, it is enough to quote here a few sentences from the exegesis of the Bible compiled by 40 Bible scholars and edited by Rev. Dummelow. This commentary has received favourable reviews from

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<sup>1</sup> (Matthew 6:24; similar passage is also found in Luke 16:13)

Christians of many denominations. At one time, this was one of the most popular commentaries of the 20<sup>th</sup> century. Under General Articles, there is an article titled "The Teaching of Jesus Christ" in which it is written:

*"Christianity has approved a type of character in most respects the very opposite of that which is approved by the world: instead of pride, humility; instead of standing upon one's own rights, submission to wrong; instead of ambition, contentment. Gentleness, meekness, patience, sympathy, the power of rejoicing in tribulation, and of extracting pleasure from pain, are the gifts of Christianity to the world. ...But perhaps the best general description of a Christian man's character is to say that he is a single-minded man. He cannot have one foot in the world and the other in the Church; he cannot serve God and mammon. ...Christ regarded wealth as the great means by which the world binds men into its service. Detachment from the wealth, therefore, is a necessary preliminary to being a Christian."*<sup>1</sup>

#### 4. The Actual Flaw of Christian Ethics

Now it is very well understood that the teachings concerning love, forgiveness, mercy, meekness and passivity in Christianity are components of that ethical system which is structured on the foundation of monasticism. Since Christianity has adopted a path to achieve salvation in the Hereafter which is quite different and separate from the path leading to the prosperity in the world, it leaves the affairs of the world to the worldly people and isolates itself along with its religious followers so that it can sit in an isolated place and make preparations to acquire the "heavenly kingdom." In such a religion not permitting to wage war does not mean that in spite of accepting the obligations concerning the management of the world and its affairs, it does not consider it necessary to

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<sup>1</sup> Dummelow, John Roberts, *A Commentary on the Holy Bible*, p. lxxx, (New York, 1909)



use force to discharge such obligations; rather it means that when it is not at all concerned with the affairs of the world, naturally it refuses to involve itself in waging war and bloodshed. It does not say that it is not necessary to use force to eradicate mischief; rather it says it is not essential to eradicate mischief itself. It does not say that mischief can be obliterated without waging war; rather it says worrying about its annihilation itself is a waste of time; instead of confronting it surrender before it. It does not say that it is possible to safeguard truth and justice by fighting tyranny and injustice without any bloodshed; rather it says do not fight the tyranny and injustice at all, and if a tyrant wants to usurp your rights, let him do it. It does not say that criminals can be punished without committing any violence and that the law of requital can be implemented without the use of force; rather it says that you give up the very concept of punishment and law of requital and if any person were to sin not "up to seven times, but up to seventy times seven"<sup>1</sup> he should be pardoned. In short, establishing peace in the world, freeing it from evil and wickedness, establishing in it a government based on justice and equity, and delivering humanity from the clutches of tyranny and mischief is excluded from the practical aspects of Christianity. It has chosen for itself a life of subjugation, surrender, meekness and afflictions. Therefore, it is not strange if it is against waging war whether it is for the truth or the untruth; for such a life this is the attitude which is most suitable.

But the question is whether this teaching of debasement, humiliation and passivity can become a permanent universal law for human beings? Christianity itself gives a very clear answer to this question. When it has

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<sup>1</sup> The verses in Matthew read as follows: "Then Peter came to him and said: 'Lord, how often shall my brother sin against me and I forgive him? Up to seven times?' Jesus said to him, 'I do not say to you, up to seven times, but up to seventy times seven.'" (Matthew 18:21-22) [Translator]

been proved that abandonment of war is not an absolute law in itself but is just one of the several clauses of a wider law governing monasticism and self-denial, it becomes incumbent that the clause of abandonment of war can be promulgated only when the law governing monasticism and self-denial is promulgated in its entirety. Christianity itself does not say that you actually take into your hand governance of the world but never wage war on any account. According to its teachings, man can adopt this kind of impotent and passive life when he abandons the world and relinquishes different social responsibilities. Accepting and fulfilling all these responsibilities and at the same time adopting the ascetic way of life is neither possible and nor is the objective of Christ himself.

Now, if the law of asceticism were to be declared as the universal law, then undoubtedly the entire human species would have to withdraw from the society and the civilization. If the desired goal of man were to be the "heavenly kingdom," and if it were to be agreed too that all the affairs of the world prevent man from entering this kingdom, then it would become mandatory for the entire humanity to desist from all those things which prevents it from reaching that goal, and by adopting ascetic way of life would have to spend all its time in the religious exercises of abstinence and self-mortification. But it is apparent that this is not possible. The entire world cannot shut down its business all at once; unconcerned with livelihood, the world cannot lead the life like "birds of air" and "lilies of the field;" abandoning trade, industry and agriculture and similar activities, it cannot accept a state of inactivity and idleness; giving up its governance and administration, it cannot go and sit in monasteries. And if at all it does so, it cannot retain the honour and exaltation which Allah has bestowed upon it against all other creatures; rather, the truth is, it cannot even survive. Except in the fertile imagination, such a state of human society cannot be

proved and established in the external practical world, and God forbid, if it were to become possible, it would not be to the liking of any intelligent and prudent man. Hence, it is far removed from reason to say that the ethical law of Christianity is a permanent and universal law for the entire humanity, because only that law can be universal and permanent which can be followed by all the inhabitants of the world in every state and circumstance.

Further, this law is not even practical for even one nation leave aside the entire world. If a nation were to accept all the restraints in their entirety and were to practically follow all its instructions, it would, first of all, have to suspend the structure of its government, would have to disband its military and police forces, and would have to give up guarding its borders, forts and cities. And when any of its mischievous neighbouring nations were to attack it, this good-natured nation, according to the teaching of Christianity, would not confront the attacking nation, but would rather turn the other cheek also if the right cheek is slapped and if the tunic is taken away would give away its cloak too [Mathew 5:39, 40]. Further, it would hand over all its wealth, its trading and commercial establishments, its shops, and even its household effects, because "it is hard for a rich man to enter the kingdom of heaven" [Matthew 19:23], and when it has been ordained to "sell what you have and give it to the poor," [Matthew 19:21] it would give up toiling to earn even its livelihood, shut down its industries, give up arts and crafts and all other social activities, and all of its professional, labour and work force, quitting their respective functions, would go and sit in monasteries, because "you cannot serve God and mammon" [Matthew 6:24] at the same time, and because Christ further ordains "do not worry about your life" [Matthew 6:25]. In the end, it will have only one source of livelihood left, i.e. of cultivating the land and acquiring food grains for its survival. But, to enter the kingdom of

heaven he has to relinquish this too, because Christ says, "look at the birds of the air, for they neither sow nor reap nor gather into barns; yet your heavenly Father feeds them" [Matthew 6:26]. This way, the people of such a nation would surrender their state and government, their lands, their wealth and riches, their commerce and industries, in short, their every possession to the foreign invaders and would readily agree to become their slaves. Then, if they "compel them to go one mile," they would be ready to "go two miles" [Matthew 5:40]; if they persecute them and use them spitefully, they would pray for them; if they curse them, they would bless them [Matthew 5:44]; they would dishonour and humiliate them, they would patiently bear them.

According to the Christian viewpoint, this is the pinnacle of its ethics, after which nothing prevents man from entering the kingdom of heaven. But according to the viewpoint of human intellect and sagacity, this is the lowest state of debasement, lowness and decline of a nation, achievement of which an intelligent person would not interpret except with a single word, "suicide" – and I am unable to understand, after all, what kind of that kingdom of heaven is where these kinds of cowards and useless people are in demand. Anyhow, as far as this world is concerned, it is evident that in this sense, no nation on the earth can adopt the Christian ethical law as its law and way of life, because the human nature in order to secure its own existence and procure its basic necessities would be compelled to break every clause of this law, and after practically contravening this law, it would be meaningless to have faith in it.

Now the third possibility is that it is not to be considered an all-embracing law for an entire nation, but only specific to a group of people as is evident from the sayings of Christ himself. This possibility is quite practicable. If in a nation different groups of people are

engaged in different activities – some groups are engaged in commerce and trade; some are occupied in crafts and industry; some take up cultivation; some are involved in the administration of political affairs and thus the business of civilization keeps on running – then it is possible that the society will allow a small part of it to lead a useless and inactive life like “birds of the air” and “lilies of the field,” and a few of its individuals get themselves occupied to try to reach that pinnacle of Christian ethics which is achieved by self-denial, severance of relationships, humiliation, passivity, and self-mortification. However, conceding this law specific to a particular group on the one hand, and on the other hand agreeing it to be the only “truth” and the only “path of salvation,” means that we agree to the monopoly of a small group of monks and ascetics over salvation or “kingdom of heaven,” and further admit that in the narrow sphere of this “tiny kingdom,” there is no place for the majority of the humanity. For those who administer the system of civilization, those who plan and manage the politics and government, those who fight and sacrifice for the protection and defence of their nation and country, and for those who toil hard to provide different human necessities the gates of this “kingdom of heaven” are closed, because it is the founding principle of Christianity that man cannot have a footing simultaneously in both the material and the religious world, and that the gates of the “kingdom of heaven” cannot be opened unless and until he quits the material world and adopts the religious world as taught by Christ. This way, only a very tiny group gets the opportunity to enter the “kingdom of the heavenly Father,” and the remaining vast majority of Allah’s creatures are debarred from it; inasmuch as that even those people cannot get an entry into it who lead a virtuous and pious life in the world, who do not kill others, who do not fornicate, who desist from theft, falsehood and other forbidden things, who honour and serve their parents, and

love their neighbour like themselves, but do not sell off their entire wealth and possession and distribute it among the poor.<sup>1</sup>

When we agree this viewpoint to be the correct viewpoint, it means that we are returning to the first possibility. If it is conceded that Christianity's law of ethics is the only way to reach the "kingdom of heaven," or the goal of salvation, and that whoever does not follow this law cannot reach that goal, then essentially it should also be agreed that it is a universal law for the entire humanity. Because, salvation is the goal of every human being and declaring any path or law to be the only way to reach it means that it has been made for the entire human race and that inviting everyone to that way is desired. But it has been proved that gathering the entire human race on this path and it walking in unison on it is logically and practically impossible. Therefore, the result that has come out of it is that as the law derived by Christianity is not permanent and universal so also it is not the only true source of salvation.<sup>2</sup> Universal, permanent and the only source of salvation can be that Law which can be followed by a ruler while remaining a ruler; by a tradesman while

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<sup>1</sup> Matthew 19:16-22; Mark 10:17-22; Luke 18:18-23.

<sup>2</sup> The Christians themselves have perceived this ambiguity. Therefore, to remove this ambiguity they have invented a doctrine that it is not necessary to follow the Christian Law entirely for achieving salvation, because Christ died on the cross and thus atoned for the sins of the faithful, and that Christ is the saviour of those who have faith in him. But the weakness of this doctrine is quite evident. Once this doctrine is accepted, there will not be any need for Christianity's law of ethics. If this doctrine of atonement is true, it means that even after committing a murder, fornication, theft, unlawful earning and tormenting the neighbour, a man can enter the "kingdom of heaven" if he has faith in Christ. In that case, all the ethical teachings would become meaningless which Christ has taught in his sermons; rather the saying of Christ would become untrue where he says that with these sins no one can enter the "kingdom of heaven," and if the saying of Christ is true then the belief in the doctrine of atonement is wrong. Anyhow, these two beliefs cannot run concurrently and according to the logic and intellect they cannot become a part of a religious system without palpable contradiction.

remaining a tradesman; by a farmer while remaining a farmer; and for that matter, by every person while attending to his various individual and collective responsibilities, and while doing so no person should face any insurmountable difficulties, unbearable dangers, calamities and afflictions. The law which is not of these characteristics cannot be the straight path of Truth, nor can it be the only source of salvation, nor can it be the true law compatible with human nature.

But we cannot remain on this viewpoint either. We have to go one step forward and say that Christianity's law of ethics, in its present form, is quite against the human nature. It is, in fact, the result of a wrong perception of ethical superiority, in which along with some imbalances a few virtues have been needlessly stressed upon, and a few others have been unnecessarily suspended which have paralysed the humanity. The eminence of the goodness of those human ethics which have been stressed by it is quite evident; who can deny the eminence of humility, civility, courtesy, mercy, forgiveness, forbearance, tolerance, patience, and endurance? But building up the human life on these alone is not correct. If the evil and mischief were to be completely removed from the face of the earth, if humans were to be bestowed with the qualities and attributes of angels, and if Satan along with his followers were to migrate from this planet to some other planet, then it would be possible for man to protect and safeguard his rights, his honour and his very existence without the use of his physical strength and force. But, when there exists evil along with righteousness and when the Satanic influences still hold sway over human nature and are ever ready to subjugate its angelic qualities, it is not only suicidal to leave righteousness unarmed and not to use the strengths and power granted by Allah to safeguard it, but it is also construed as directly aiding and abetting evil and mischief. Indeed, it is not righteousness to deliberately give

opportunity to tyrants to oppress people and liberty to mischief-mongers to spread mischief. We can characterize this attitude as weakness, cowardice or lack of courage, but cannot interpret it as acts of righteousness, piety, and benevolence. Righteousness is the other name of reformation and it creates a balanced attitude both in the state of love and anger. If evil can be reformed with forgiveness, mercy, patience and forbearance, it should be accomplished with their help; and if these powers of love fail then it is necessary to use the powers of politics, criminal laws, law of retribution and revenge, because reformation is the real objective; it is mandatory to use, to the extent it is essential, every such method that is helpful and inevitable in the achievement of this objective. Discriminating between different modes and methods of reformation and insisting on the use of only one way which leads to more mischief than reformation is neither a wise approach nor an act of piety.

The hypothesis of Christianity that the founding principle of religion is "love" and apart from it all other feelings and ethical qualities are false and progress in piety can be achieved only by destroying them, is actually based on a wrong supposition. The vision of the inventors of this hypothesis could not reach the fact that Allah has not created anything in vain. They thought that the feelings of anger, passion, sensuality, love of self, etc. have taken birth in man without any purpose, and that in human life there is no use for bravery, self-respect, courage, generosity, prudence, governance, justice, fair play, etc., which, of course is a false perception. All kinds of skills, strengths, compassions and feelings which have been gifted to man have some purpose or the other. As no part of the human body, even a hair, has been created in vain, similarly man's physical and mental powers, his every outer and inner skill, and his every passion and desire are not created in vain. The Creator of the Universe has not created man and gifted



him with various abilities and powers without any purpose. If these powers manifest in wrong forms and adopt deviant ways, it does not mean that they are, by nature, wrong and despicable; rather the reason is that man has not understood their correct usage and his sense has not progressed far enough to guide him towards their correct usage.

For example, sensuality or sexual desire and lust is an emotion under the influence of which man has committed so many sins that perhaps he might not have committed that many sins under the influence of any other emotion. But on the basis of this, it cannot be decided that it should be annihilated completely, because the survival of human race depends on it. Greed is an emotion which makes man selfish and invites him to commit worst kinds of sins, but it cannot be decided to completely obliterate it, because this is the emotion which stirs him to act. Anger is another emotion which has created innumerable disputes in the world and which has resulted in excessive oppression. But it cannot be derived from it that this emotion is nothing but evil and no benefits can be discerned from it, because this is the emotion which guarantees peace and tranquility in the world; otherwise, the powers of evil and mischief would completely annihilate it. Similar is the state of feelings and skills which are considered delicate and very eminent. In them too, where there are many merits, there are demerits too. If bravery exceeds its limits, it turns into rashness and foolishness. If far-sightedness takes the form of excessiveness, it becomes timidity and meekness. If mercy does not remain in its natural limits, it abets in the commitment of crimes and sins. If generosity exceeds its limits, it takes the shape of extravagance and squandering, whereas excessive frugality leads to avarice and niggardliness. If love does not remain in its boundaries, it blinds man's intellectual faculties. Politeness, if used on wrong occasions, creates insolence and impudence. Out of place forbearance and gentleness, instigate arrogance and

cruelty. If submissiveness and abjectness are out of place, self-esteem and self-contentment are ruined.

In short, whatever powers have been gifted to human self have both good and bad sides, and just looking at one side we cannot give an edict of their goodness or badness, nor can we decide which one is to be adopted and which one to be discarded. As we cannot say that only the legs, hands, heart and brain are useful to man, and eyes, nose, stomach, liver, etc. are not required; that only the sense of hearing and touch are enough, sense of sight and smell are not needed; just power of perception and intelligence are adequate, power of memory and discretion are not necessary, similarly we cannot say that man is in need of only love, mercy, forgiveness, humility, etc. and he does not require the emotions of hate, anger, bravery, self-respect, self-contentment, sense of honour, etc. If the deficiency in the digestive system cannot be compensated by the liver, if heart cannot perform in place of brain, certainly in place of anger and retribution, mercy and forgiveness would not be beneficial. As the health of the body depends on the symmetry of all its forces and as the intellectual health can be achieved only when all the powers of the brain work in symmetry with each other, similarly excellence in ethics can be achieved only when there is congruence in desires and passions, when all the forces of self are used symmetrically at their proper time and places, and all the skills gifted by the Nature are allowed to fully function in their respective fields and within their boundaries. The task of a religion based on human nature is to guide towards this symmetry, and is not to create, in answer to an asymmetry another asymmetry, against one excess another excess.

Christianity has not been able to understand this great truth. Therefore, it has presented man with the teaching of monasticism and self-denial and has pronounced that man should adopt debasement, humiliation and passivity as the

way of life. But this is neither a state of ethical excellence nor a service to humanity; rather, the truth is, it is a great injustice to humanity. The people who adopt this way of life, on the one hand, deprive themselves of those lawful comforts and pleasures which Allah has created for them, and on the other, they deprive the humanity of their services by making their existence useless and unproductive. Christianity has separated the kingdom of world from the kingdom of heaven; it has declared God and wealth two contradictory forces and has ordained true faithful to relinquish wealth and embrace God exclusively and by giving up kingdom of world, try to enter the kingdom of heaven. This would naturally result in the virtuous, good-natured, religious, god-fearing and honest people abandoning the world and all the affairs of the world getting into the hands of the lowest and worst strata of the society who are bereft of honesty and righteousness; government being ruled by tyrants and oppressors; commerce and trade being run by greedy and dishonest people; industries being controlled and run by fraudsters and scamsters; and in short the forces of evil and mischief getting a free hand to ruin the entire organization and system of the society. When those pious people who can guide the society on to the right path do nothing and sit aloof from the affairs of the world, naturally the wicked and evil-mongers would take up their place and rule the society, and for the evil and mischief committed by them the pious would also be responsible to a large extent, who abdicating their responsibilities left the field wide open for the evil and the wicked.

## **5. The True Nature of Christianity**

From the foregoing discussion, it is quite evident that exclusion of politics, war, and criminal laws in Christianity is not proof of its excellence, but is proof of its deficiency. There are so many deficiencies in the shape in which

Christianity has been presented before us that no nation of the world can follow the way of life it has recommended.

However, by a deep study of Christianity one more fact becomes evident. When we study the teachings of Christ, we do not find in them anything but a few general instructions about some beliefs and ethical values. There is neither a detailed Law, nor any permanent laws of ethics, nor any instructions about the rights, duties, commerce and trade, nor is there even a fixed and set way of worship. Hence, it is apparent that such a religion cannot be an independent and enduring religion. After acquiring instructions about basic belief and a few ethical values, the followers of a religion still require instructions in other aspects of their lives. The religion which does not have such instructions and detailed regulations cannot have the capability of becoming a separate and independent religious system. Hence, a question that naturally arises is: Had Christ made such an incomplete religion a permanent religion and was he unaware of the fact that such an incomplete religion is incapable of guiding even a nation in every situation and in every age let alone the entire humanity? The followers of Christianity answer this question in the affirmative. But when we study the history of Christianity and view the circumstances under which it came into existence and investigate those objectives for which it came into being, we get quite a different answer.

It is a fact that Christianity was never an independent religion in itself; rather it came into being to complete the Mosaic Law and for reformation of Children of Israel. The age in which the Mosaic Law had been revealed was the age of Children of Israel's infancy. They did not have the ability to adopt and follow any weighty ethical teachings. Therefore, Prophet Moses (peace be upon him) had taught them some simple beliefs and had given them some simple ethical regulations, which were deficient from the point of view of ethical qualities, spiritual purity and the real spirit

of faith. For a few centuries the Children of Israel, in some way or the other, followed this Mosaic Law, but later on, when their state of affairs spread to a wider sphere, this deficiency which had remained in the Law began to cause trouble.<sup>1</sup> Slowly the ethical state of the Children of Israel got deteriorated and this deterioration naturally manifested in the form of weakness of their faculties, potentials and courage. First, the glue that was binding their community started to come loose and it got itself divided into numerous groups. Next, clashes between its different scattered groups started which weakened them considerably, and eventually they were subdued and enslaved, which caused them to reach the deepest reaches of debasement and degradation.

In 722 B.C., first the Assyrians conquered the Jews and for nearly two centuries they put them to extreme drudgery and hard labour. After them, in 587 B.C. the Babylonians enslaved and exiled them. Next, in 538 B.C. the Persians came and kept them subjugated for another two hundred years. After them, under the reign of Alexander the Great, the Greeks enslaved them. After the death of Alexander in 323 B.C., the Jews came under the subjugation of Ptolemies of Egypt and thus they were in the servitude of Greeks for nearly a century. In 198 B.C., Seleucid King Antiochus III (who belonged to another Greek Dynasty) after ousting King Ptolemy V ruled the Jews and forced them to adopt idol worship and installed idols in all the Jewish temples. In the middle of the second century B.C., the Jews had the craving for freedom and they revolted and in 141 B.C., they established an

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<sup>1</sup> I once again would like to caution the readers that this whole discussion is based on the existing Torah, the Gospels, the Christian and Jewish literature and the results of the modern-day historical research. The Holy Quran views and presents this issue in a very different perspective and this is not the place to describe it. Those who wish to know more about this may read my exegesis of the Quran in Urdu titled *Tafheem al-Quran* [which has been translated into English under the title *Towards Understanding the Quran*].

independent state which lasted for 80 years. However, their character and conduct deteriorated to such an extent that they could not remain united and soon such severe cracks appeared in their society that they themselves invited the Romans to invade their country. In 60 B.C. the Romans attacked Palestine and when Prophet Jesus (peace be upon him) reached the age of discretion, the entire Jewish nation was under the servitude of the Romans. Thus, after living for nearly seven to eight centuries under the servitude of the star-worshippers of Assyria and Babylonia, fire-worshippers of Persia, and idol-worshippers of Greek and Rome there did not remain even a semblance of ethics, nobility, righteousness and human values in the Jewish people.

In the Old Testament itself we get lots of details about the moral and spiritual decline of the Jews. In the seventh century B.C., the pagan worship and other evil practices introduced and enforced by Manasseh, King of Judah, have been described in Kings II:21 as follows:

*"He rebuilt the high places which his father had destroyed; he raised up altars for Baal, and made a wooden image, as Ahab the king of Israel had done; and he worshipped all the host of heaven (i.e. the heavenly bodies) and served them. He also built altars in the house of the Lord, of which the Lord had said, 'In Jerusalem I will put My name.' And he built altars for all the host of heaven in the two courts of the house of the Lord. Also he made his son pass through the fire, practiced soothsaying, used witchcraft, and consulted spiritists and mediums... He even set a carved image of Asherah that he had made, in the house of which the Lord had said to David and to Solomon his son, 'In this house and in Jerusalem, which I have chosen out of all the tribes of Israel, I will put My name forever.'" (2 Kings 21:3-7)*

The moral condition of that age has been described by Prophet Hosea (peace be upon him)— 782-741 B.C. — as follows:

*"Hear the word of the Lord, you Children of Israel, for the Lord brings a charge against the inhabitants of the land: 'There is no truth or mercy or knowledge of God in the land. By swearing and lying, killing and stealing and committing adultery, they break all restraint, with bloodshed upon bloodshed. Therefore the land will mourn; and everyone who dwells there will waste away with the beasts of the field and the birds of the air; even the fish of the sea will be taken away.' (Hosea 4:1-3)"*

Prophet Isaiah (peace be upon him) – 740-701 B.C. – says:

*Why should you be stricken again? You will revolt more and more. The whole head is sick, and the whole heart faints. From the sole of the foot even to the head, there is no soundness in it, but wounds and bruises and putrefying sores; they have not been closed or bound up, or soothed with ointment. Your country is desolate, your cities are burned with fire; strangers devour your land in your presence; and it is desolate, as overthrown by strangers." (Isaiah 1:5-7)*

*"How the faithful city has become a harlot! It was full of justice; righteousness lodged in it, but now murderers. Your silver has become dross, your wine mixed with water. Your princes are rebellious, and companions of thieves; everyone loves bribes, and follows after rewards. They do not defend the fatherless, nor does the cause of the widow come before them." (Isaiah 1:21-23)*

*"The harp and the strings, the tambourine and flute, and wine are in their feasts; but they do not regard the work of the Lord, nor consider the operation of His hands. Therefore, my people have gone into captivity, because they have no knowledge; their honourable men are famished, and their multitude dried up with thirst. Therefore Sheol has enlarged itself and opened its mouth beyond measure; their glory and their multitude and their pomp, and he who is jubilant, shall descend into it." (Isaiah 5:12-14)*

*"Woe to men mighty at drinking wine, woe to men valiant for mixing intoxicating drink, who justify the wicked for a bribe, and take away justice from the righteous man! Therefore, as the fire devours the stubble, and the flame*

*consumes the chaff, so their root will be as rottenness, and their blossom will ascend like dust; because they have rejected the law of the Lord of hosts, and despised the word of the Holy One of Israel.” (Isaiah 5:22-24)*

Another Prophet of this era, Micah (peace be upon him) says:

*“Hear now, O heads of Jacob, and you rulers of the house of Israel: Is it not for you to know justice? You who hate good and love evil; who strip the skin from My people, and the flesh from their bones; who also eat the flesh of My people, flay their skin from them, break their bones, and chop them in pieces like meat for the pot, like flesh in the caldron.” (Micah 3:1-3)*

*“Now hear this, you heads of the house of Jacob and rulers of the house of Israel, who abhor justice and pervert all equity, who build up Zion with bloodshed and Jerusalem with iniquity; her heads judge for a bribe, her priests teach for pay, and her prophets divine for money.” (Micah 3:9-11)*

From the aforesaid sayings of the Prophets of Children of Israel, it is very clear that in that era the actual spirit of Mosaic Law, i.e. faith, truth, honesty, justice, equity and chastity in ethics had departed from the midst of the Jewish people, and corruption, greediness, oppression, adultery and immodesty had engulfed the entire community. Their rulers were tyrants, their priests were hypocrites and ostentatious, their chiefs were corrupt and their multitudes had become wicked. They had taken just the wordings of the Mosaic Law and extraneous exhibition of traditions and standards as the real Law and had forgotten the expressive and intrinsic nature of the Law which is always the basic objective of every divine Law. Long before Jesus (peace be upon him), worried about this perpetual debasement and regression other Prophets of the Children of Israel tried to reform them. They tried to remind them through their sermons and exhortations the forgotten truth that God is not pleased just from sacrifices and prayers, but is pleased with truth, mercy and fair play in their worldly affairs, and to



obtain His mercy it is necessary to cultivate the habit of forgiveness, love, selflessness and generosity. In the Old Testament we find numerous such exhortations of previous Prophets; Prophet Isaiah (peace be upon him) says:

*"To what purpose is the multitude of your sacrifices to Me?" says the Lord. "I have had enough of burnt offerings of rams and the fat of fed cattle. I do not delight in the blood of bulls, or of lambs or goats. When you come to appear before Me, who has required this from your hand, to trample My courts? Bring no more futile sacrifices; incense is an abomination to Me. The New Moons, the Sabbaths, and the calling of assemblies – I cannot endure iniquity and the sacred meeting. Your New Moons and your appointed feasts My soul hates; they are a trouble to Me, I am weary of bearing them. When you spread out your hands, I will hide My eyes from you; even though you make many prayers, I will not hear. Your hands are full of blood. Wash yourselves, make yourselves clean; put away the evil of your doings from before My eyes. Cease to do evil, learn to do good; seek justice, rebuke the oppressor, defend the fatherless, plead for the widow...If you are willing and obedient, you shall eat the good of the land; but if you refuse and rebel, you shall be devoured by the sword;" for the mouth of the Lord has spoken. (Isaiah 1:11-20)*

On another occasion Prophet Isaiah (peace be upon him) teaches them about the real inner spirit of prayers and the superiority of high ethics as follows:

*"Indeed you fast for strife and debate, and to strike with the fist of wickedness. You will not fast as you do this day, to make your voice heard on high. Is it a fast that I have chosen, a day for a man to afflict his soul? Is it to bow down his head like a bulrush, and to spread our sackcloth and ashes? Would you call this a fast, and an acceptable day to the Lord? Is this not the fast that I have chosen: to loose the bonds of wickedness, to undue the heavy burdens, to let the oppressed go free, and that you break every yoke? Is it not to share your bread with the hungry, and that you bring to your house the poor who are cast out; when you see the naked that you cover him, and not hide yourself from*

*your own flesh? Then your light shall break forth like the morning, your healing shall spring forth speedily, and your righteousness shall go before you; the glory of the Lord shall be your rear guard. Then you shall call, and the Lord will answer; you shall cry, and He will say, 'Here I am.' If you take away the yoke from your midst, the pointing of the finger, and speaking wickedness, if you extend your soul to the hungry and satisfy the afflicted soul, then your light shall dawn in the darkness, and your darkness shall be as the noonday." (Isaiah 58:4-10)*

Another Prophet, Micah (peace be upon him), repeats this spiritual teaching thus:

*"With what shall I come before the Lord, and bow myself before the High God? Shall I come before Him with burnt offerings, with calves a year old? Will the Lord be pleased with thousands of rams, ten thousand rivers of oil? Shall I give my firstborn for my transgression, the fruit of my body for the sin of my soul? He has shown you, O man, what is good; and what does the Lord require of you but to do justly, to love mercy, and to walk humbly with your God?" (Micah 6:6-8)*

For nearly seven centuries this teaching echoed back after knocking against deaf ears. The condition of the Children of Israel worsened day after day. It required a far stronger reformer to eradicate the deep-rooted ethical and spiritual evils. Therefore, Almighty Allah appointed Jesus as his Prophet and he presented the teaching of Prophets Isaiah and Micah with a new fervour and a new spirit. As was the case with the teachings of the previous Prophets, the purpose of the teaching of Jesus (peace be upon him) was not to cancel the Mosaic Law and establish a new religion in its place; rather its purpose was to remove that deficiency which had remained over in the Mosaic Law, and to breathe in that spirit of ethical excellence in the Children of Israel which they were in dire need. At that time, there was deficiency of truth, honesty, forbearance, forgiveness, devotion, contentment, generosity, God-fearing and compassion in the Jewish ethics. They had

become extremely selfish, mammonists, greedy and mean-natured. There no longer remained any spirit of righteousness in them which is the soul of humanity. Therefore, Prophet Jesus (peace be upon him) spent all his power and resources in eradicating these defects and deficiencies, and retaining the actual Mosaic Law he introduced and included in it only those teachings which were essential and required according to the prevalent circumstances of that era.<sup>1</sup> Hence, Christianity is not a separate religion; rather it is actually a part of Jewish religion, and in truer sense it is its supplement. This is what Prophet Jesus (peace be upon him) himself says as has been quoted in the Gospels:

*"Do not think that I came to destroy the Law or the Prophets. I did not come to destroy but to fulfil. For assuredly, I say to you, till heaven and earth pass away, one jot or one tittle will by no means pass from the law till all is fulfilled. Whoever therefore breaks one of the least of these commandments, and teaches men so, shall be called least in the kingdom of heaven; but whoever does and teaches them, he shall be called great in the kingdom of heaven. For I say to you, that unless your righteousness exceeds the righteousness of the scribes and Pharisees, you will by no means enter the kingdom of heaven."* (Matthew 5:17-20)

In another place, Prophet Jesus (peace be upon him) ordains his followers thus:

*"Then Jesus spoke to the multitudes and to his disciples, saying: 'The scribes and the Pharisees sit in Moses' seat."*

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<sup>1</sup> This fact is now being admitted by the Christian scholars themselves. The eminent Christian scholar, William Ralph Inge, who was Dean of St. Paul's Cathedral, London, (and hence widely known as "Dean Inge), while speaking in Girton College, Cambridge, had admitted that Jesus had never deviated from the Mosaic teachings, nor had he brought a new teaching, nor had he established any new religion in place of the Mosaic religion. He further stated that although Jesus wanted some freedom as regard to the spiritual matters, but had adapted to the occurrences of his time and country. Hence, accordingly although it was necessary for it to be somewhat different from the Mosaic Law, Jesus had not prescribed any new Law for the Christians.

*Therefore whatever they tell you to observe, observe and do, but do not do according to their works; for they say, and do not do. For they bind heavy burdens, hard to bear, and lay them on men's shoulders; but they themselves will not move them with one of their fingers." (Matthew 23:1-4)*

John further clarifies this in his Gospel as follows:

*"For the law was given through Moses, but grace and truth came through Jesus Christ." (John 1:17)*

From the aforesaid sayings, it is evident that in Christianity all the ordinances found in the Mosaic Law have been retained and only "grace and truth" have been added on to them.

## **6. Reason for Lack of Laws of War in Christianity**

Now, there is no need to stress upon that the ordinances pertaining to war, peace, governance, politics, criminal laws, etc. found in the Torah were retained in Christianity too. The Christian religion did not deny any of these ordinances even to the extent of a jot or a tittle. However, in the era in which Prophet Jesus (peace be upon him) was born there was little occasion to implement them.

It is already mentioned above that at the time of the prophethood of Jesus (peace be upon him), his people were under the servitude of different other nations for nearly seven to eight centuries. Just 60 years before his birth, the Roman army had attacked Palestine and had obliterated it from one corner to the other. When Prophet Jesus (peace be upon him) came of age, his entire people were under the servitude of the Romans. In 6 CE their actual native country, Judea proper, became part of a larger Roman province called Ludaea and was ruled directly by the Roman provincial governors known as Procurators (also called Prefects). When Prophet Jesus (peace be upon him) started his prophetic mission, the Procurator of Jerusalem was Pontius Pilate who was an unjust and unscrupulous person. Under the servitude of such pagan and cruel masters, the ethical and mental state of the Children of

Israel had regressed to such an extent that they were not ready even to listen to the Truth. When Prophet Jesus was alive, the ruler of Galilee, Herod Antipas, had killed Prophet John the Baptist (peace be upon him) to please her own step-daughter whose dance he and his associates had very much enjoyed.<sup>1</sup> Even the dignity, respect and honour that Prophet Jesus (peace be upon him) commanded with the Children of Israel can be judged by the fact that they considered the life of a dacoit, Barnabas, more precious than the life of Prophet Jesus (peace be upon him).

In such circumstances, how was it possible for Prophet Jesus (peace be upon him), in the very beginning of his missionary, to raise the banner of war and after a successful battle establish a religious state. He was seeing with his own eyes that the Jewish people had lost their spirit, their characters had lost all the moral strength, and they had become a spineless and lifeless nation. Therefore, his first step was to dig out his people from the deep pit of moral and ethical degradation in which they had fallen and breathe in them that spirit of ethical excellence without which no people can break the shackles of slavery and can be successful in establishing and maintaining their existence as a free and independent nation. Thus, at the outset, he paid attention towards reconstruction of the character and conduct of the Jewish people, and till the completion of this task, always tried his best to see that there did not arise an occasion for a confrontation with the Roman government, because had there been a confrontation with the existing government in the very beginning itself, it would have been impossible to take up and complete the

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<sup>1</sup> In the Gospel, accounts of John's death have been described as follows: Herod had imprisoned John for denouncing his incestuous marriage with Herodias, who was not only his brother, Philip's, former wife but also Herod's *niece*, in violation of Old Testament Law. Later Herodias's daughter Salome (who was both Herod's grand-niece and stepdaughter) dances before Herod, who offers her a favour in return. Herodias tells her to ask for the head of John the Baptist, which is delivered to her on a plate (Mark 6:14-29).

reformatory work, and without reformation the confrontation with the government would not have succeeded either and would have resulted in a disaster. Therefore, he always tried to avoid a confrontation with the government, and when the pupils of the Jewish scholars, to entrap him, asked Prophet Jesus (peace be upon him) whether they should pay tax to the Caesar or not, he evaded them by giving a double entendre answer:

*"Is it lawful for us to pay taxes to Caesar or not?" But he perceived their craftiness, and said to them, "Why do you test me? Show me a denarius. Whose image and inscription does it have?" They answered and said, "Caesar's." And he said to them, "Render therefore to Caesar the things that are Caesar's, and to God the things that are God's." (Luke 20:22-25)*

Prophet Jesus (peace be upon him) had ordained them not to resist an evil-monger and also had ordained that whoever oppresses you, pray for him; whoever compels you to go one mile, go with him two; if anyone wants to take away your tunic, let him have your cloak also; whoever slaps you on your right cheek, turn the other to him also. In the beginning, the objective of these ordinances was not to have a confrontation with the government and to slowly build up the power and strength in the Jewish people to bear the difficulties and hardships. Later on, he began to teach his people steadfastness, patience and fearlessness; he prepared them to confront the hardships and rigours of life and tried to remove from their hearts and minds fear of death and terror of a tyrannical and oppressive government. He said:

*"But watch out for yourselves, for they will deliver you up to councils, and you will be beaten in the synagogues. You will be brought before rulers and kings for my sake, for a testimony to them."* (Mark 13:9)

To remove the love of worldly life and create a desire to die for Truth, Prophet Jesus (peace be upon him) said:

*"For whoever desires to save his life will lose it, but whoever loses his life for my sake will save it." (Luke 9:24)*

He taught them to have more trust in God and His means of subsistence than on the support and favours of the government, so that that greatest weakness of servility could be removed which keeps a servile nation shackled to a governing nation. He pronounced:

*"If you then, though you are evil, know how to give good gifts to your children, how much more will your Father in heaven give the Holy Spirit to those who ask him!"*

*(Luke 11:13)*

He tried to remove the terror, fear and awe of the government from their hearts and said:

*"I tell you, my friends, do not be afraid of those who kill the body and after that can do no more. But I will show you whom you should fear: fear Him who, after your body has been killed, has authority to throw you into hell. Yes, I tell you, fear Him."*

*(Luke 12:4-5)*

All these instructions were essential to create the capabilities and competency in the people who were in servitude for centuries so that they could achieve their freedom, and hence Prophet Jesus (peace be upon him), in the beginning, limited his teachings to these aspects alone. After crossing over this stage, in the last stages of his missionary, he was advancing towards the topic of war and battle, and had begun to manifest the desire to kill his enemies. On one occasion, he said:

*"But bring here those enemies of mine, who did not want me to reign over them, and slay them before me."*

*(Luke 19:27)*

Similarly he also ordained his followers to arm themselves with a sword:

*"Then he said to them, 'but now, he who has a money bag, let him take it, and likewise a knapsack; and he who has no sword, let him sell his garment and buy one. ... So they said, 'Lord, look, here are two swords.' And he said to them, 'It is enough.'"*

*(Luke 22:36, 38)*

However, Prophet Jesus (peace be upon him) got only a period of about 2 ½ to 3 years to reform and guide his people, and this short period was not enough to prepare an entire people for waging war in the Cause of Allah. In this period, neither the number of his followers had increased to such an extent as to enable him to confront the Romans with their help, nor the moral and ethical training of the people who were his followers had completed to the extent that like the Companions of Prophet Muhammad (peace be upon him) they could be ready to face every kind of danger, leave their hearths and homes, and confront and fight fearlessly the mightiest powers of the time. Their faith was not strong enough to boldly and publicly declare the Truth. The state of Peter's faith, who was the most trusted and beloved disciple of Jesus, at the time of his arrest was such that when he was asked whether he was one of the followers of Jesus, he denied as Jesus had predicted: "Assuredly, I say to you that today, even this night, before the rooster crows twice, you will deny me three times" [Luke 14:30]. One of Jesus' twelve companions, Judas Iscariot, got him arrested for a meager sum of 30 pieces of silver [Mathew 26:14-16]. When Jesus got arrested all his "disciples forsook him and fled" [Mathew 26:56].

It is quite clear from the above that when the condition of Jesus' trusted disciples was such, you can imagine the moral and ethical condition and standard of his common followers, and how Jesus could have taken the courage to confront a powerful enemy with an army comprising of such unreliable and untrustworthy followers. If Jesus had the time and opportunity to train his followers similar to the time and opportunity that Prophet Muhammad had, perhaps he would also have generated in his disciples the same striving spirit of struggling in the Cause of Allah as Prophet Muhammad (peace be upon him) was able to generate in his Companions. But his rebellious and mischievous people could not bear his prophetic missionary even for three years



and did not give him sufficient time so that he could do something great for their prosperity and success. In this short period of time whatever much could be done, Prophet Jesus (peace be upon him) did it. If we study the beginning three years of the prophetic life of Prophet Muhammad (peace be upon him) at Makkah, we do not find any hint of war or Jihad anywhere. We find in the first three years of Prophet Muhammad's missionary, the same teachings of patience, forbearance, steadfastness, piety, humility, fear of Allah, trust upon Allah, purification of self and adoption of ethics as we find in the three years of the prophetic life of Jesus (peace be upon him).

## **7. Relationship between Christianity and the Mosaic Law**

If we analyze the teachings of Prophet Jesus (peace be upon him) in the light of the foregoing discussion, they get divided into two major kinds.

The first kind is those teachings by which Prophet Jesus (peace be upon him) has completed the Mosaic Law and has made some necessary additions to it. There was deficiency in the Mosaic Law with regard to mercy, compassion, kindness and softness; Prophet Jesus (peace be upon him) added them on to the Mosaic Law. There was no flexibility at all in its rules and regulations and the perception of a wider human brotherhood in its teachings was hazy; Prophet Jesus (peace be upon him) made it clear and instructed his people, the Children of Israel, to love the entire humanity. In the Mosaic Law more stress had been given just on obligatory duties; benevolent actions and ethical excellence had been left untouched. Prophet Jesus (peace be upon him) stressed more upon this aspect and gave particular instructions about virtues such as charity, benevolence, mercy, kindness, generosity. This part of the teachings of Jesus was not a separate or independent law in itself, but was an appendix or a supplement to the Mosaic Law.

The second kind of teachings is those by which Prophet Jesus (peace be upon him) had tried to reform the Children of Israel keeping in view their special ethical, social and political situation of his time. For example, greed for wealth and riches and love for the world were deeply rooted in the hearts and minds of the Jews; against this Prophet Jesus (peace be upon him) stressed upon contentment, trust in God and disdain for worldly things. There was widespread mercilessness, hard-heartedness and villainy in the Jewish community; instead he taught them to adopt mercy and forgiveness. The Jews were very miserly and narrow-hearted; he taught them to be generous and broad-minded. The rich and the jurists of the Jewish people were selfish, sensual, proud and arrogant; Prophet Jesus (peace be upon him) stressed upon humility, humbleness, piety and devotion to God to usher in moderation in their behaviour. The Jewish people were weak, helpless and were under the servitude of the Roman government; in order to ensure their safety and security, Prophet Jesus (peace be upon him), on the one hand, restrained the Jewish people from confronting the government, instructed them to bear its tyranny and oppression, and prohibited them not to use force to safeguard their rights; and on the other hand, in order to cultivate in them the intrinsic power to wage war, he tried to develop in them the required qualities of patience, steadfastness, fearlessness, firmness of determination and resolution.

This second part of the teachings of Prophet Jesus (peace be upon him) was particularly concerned with the special situation and circumstances in which the Children of Israel were engulfed during the prophethood of Prophet Jesus (peace be upon him). These teachings were never meant to be promulgated as a universal law, particularly that teaching of debasement and passivity where it is instructed not to resist an evil person; whoever slaps you on your right cheek, turn the other to him also; and whoever

takes away your cloak, give him your tunic too, was given keeping in view the particular condition of servitude and helplessness of the Jewish people. It was never meant to be made an independent political policy of an independent nation and free people, nor would it have been proper and wise to do so.

## 8. Separation of Christianity from Mosaic Law

After just a few years from the ascension of Prophet Jesus (peace be upon him), all his principles and regulations were destroyed at one go on which he had based his reformatory and renovative movement, and his original teachings were changed to such an extent that there did not remain even a trace of them anywhere in the world. The promoter of this act of metamorphosis and alteration was none other than St. Paul. We cannot pass any judgment about his intentions. It is possible that in spite of him being a very intense enemy of Prophet Jesus (peace be upon him) during his life on earth and for about six years afterwards, he would have become an ardent follower and advocate of Prophet Jesus (peace be upon him). But it cannot be denied he did not have the companionship of Prophet Jesus (peace be upon him) and did not have the opportunity to get trained directly under his guidance to fully comprehend the real spirit of the teachings of Prophet Jesus (peace be upon him). St. Paul had less capability to understand these teachings than those disciples who were directly trained by Prophet Jesus (peace be upon him) himself. Therefore, when he interpreted Jesus' religion against the interpretation of such disciples like Peter and established it on his own newly-devised foundations, though it may not be due to bad intentions but certainly due to his ignorance and lack of true knowledge, it was a clear interpolation.<sup>1</sup>

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<sup>1</sup> It is proved from the Book of Acts, which was authored by Paul's own disciple and companion Luke, that Paul did not get the opportunity to have the companionship of Jesus and get trained under him during his life-time. Further,

Out of the distortions caused by St. Paul in the basic religious principles, the first distortion is that he declared the teachings of Christ as a universal message for the entire humanity, whereas it was just meant for the Children of Israel. Whenever Jesus sent his disciples for preaching and propagation he clearly instructed them:

*"Do not go into the way of the Gentiles, and do not enter a city of the Samaritans. But go rather to the lost sheep of the house of Israel."* (Matthew 10:5-6)

Prophet Jesus (peace be upon him) himself, in his entire period of ministry, never preached amongst non-Israelite people, nor did he admit any non-Israelite into his group. Before the advent of St. Paul, disciples of Jesus too preached amongst the Israelites; the preachers were all Israelites and the people who were preached were also Israelites. Till then the Christian missionary work was considered as a reformatory movement within the Jewish religion.<sup>1</sup> Among the disciples of the Christ, it was an established issue that the Gospel was to be preached only among those who are the followers of the Mosaic Law. A major group of the followers of Christ who had gathered in the Council of the Apostles held at Jerusalem in 49 A.D. also held this opinion.<sup>2</sup> But St. Paul ignoring the real teachings and stipulations of Jesus, and ignoring the knowledge and beliefs of Apostles of Jesus, decided that the teachings of Jesus were for all the nations of the world, and to prove his decision to be correct and true claimed that after his death and subsequent ascension, Jesus came back

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when Paul started to deviate from the original teachings of Prophet Jesus (peace be upon him), he was opposed by the disciples who had been trained by Jesus himself. Hence, it can be said on the basis of Gospel itself that the principles invented by St. Paul were not only against the spirit of the religion of Jesus, but were also against the teachings of Jesus.

<sup>1</sup> Milman, Henry Hart, *The History of Christianity*, Vol. I, p. 377 (New York, 1870)

<sup>2</sup> Dummelow, John Roberts, *A Commentary on the Holy Bible by Various Writers*, p. lxxxix (New York, 1909).

to his disciples and ordained them to "go and make disciples of all nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit." (Matthew 28:19)

However, it was difficult to make the non-Israelite people follow the Mosaic Law; there were many customs and practices that these non-Israelite people hated. Therefore, the question came up whether adherence to the Mosaic Law should be stressed upon the other people when calling them to Christianity, because there were clear instructions of Jesus in this regard to the effect that "till heaven and earth pass away, one jot or one tittle will by no means pass from the law till all is fulfilled." He said further that "do not think that I came to destroy the Law or the Prophets. I did not come to destroy but to fulfil," and that "whoever therefore breaks one of the least of these commandments, and teaches men so, shall be called least in the kingdom of heaven; but whoever does and teaches them, he shall be called great in the kingdom of heaven. For I say to you, that unless your righteousness exceeds the righteousness of the scribes and Pharisees, you will by no means enter the kingdom of heaven."<sup>1</sup> Keeping in view these stipulations, it was impossible for any true Christian to separate Christianity from the Mosaic Law. But, in spite of all these stipulations, St. Paul decided that every non-Israelite can become a Christian whether he followed the Mosaic Law or not.<sup>2</sup> Hence, all those non-Israelite pagans and polytheists who did not believe in the Mosaic Law, partly or fully, were admitted into Christianity.

There was a general discontent about these alterations and abrogations,<sup>3</sup> and the elders of the Christian religion

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<sup>1</sup> Matthew 5:17-20.

<sup>2</sup> Dummelow, John Roberts, *A Commentary on the Holy Bible by Various Writers*, p. lxxxix (New York, 1909).

<sup>3</sup> "Now when the seven days were almost ended, the Jews from Asia, seeing him [St. Paul] in the temple, stirred up the whole crowd and laid hands on him,

themselves severely opposed it. But St. Paul declared the eminent disciples of Jesus like St. Peter and St. Barnabas as hypocrites and misguided and began to oppose the Mosaic Law openly. He writes in Galatians:

*"We who are Jews by nature, and not sinners of the Gentiles, knowing that a man is not justified by the works of the law but by faith in Jesus Christ, even we have believed in Christ Jesus, that we might be justified by faith in Christ and not by the works of the law; for by the works of the law no flesh shall be justified. ...I do not set aside the grace of God; for if righteousness comes through the law, then Christ died in vain."* (Galatians 2:15, 16, 21)

*"For as many as are of the works of the law are under the curse; for it is written, 'Cursed is everyone who does not continue in all things which are written in the book of the law, to do them. But that no one is justified by the faith, but 'the man who does them shall live by them. Christ has redeemed us from the curse of the law, having become a curse for us (for it is written, 'Cursed is everyone who hangs on a tree')."* (Galatians 2:10-13)

*"Therefore the law was our tutor to bring us to Christ, that we might be justified by faith. But after faith has come, we are no longer under a tutor."* (Galatians 2:24-25)

*"Stand fast therefore in the liberty by which Christ has made us free, and do not be entangled again with a yoke of bondage. Indeed I, Paul, say to you that if you become circumcised, Christ will profit you nothing. And I testify again to every man who becomes circumcised that he is a debtor to keep the whole law. You have become estranged from Christ, you who attempt to be justified by law; you have fallen from grace. For we through the Spirit eagerly wait for the hope of righteousness by faith."*

(Galatians 5:1-5)

This way Christianity got separated from the Mosaic Law; all the laws and regulations pertaining to culture, society, politics, individual and societal life were abrogated

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crying out, "Men of Israel, help! This is the man who teaches all men everywhere against the people, the law, and this place." (Acts 21:27-28)

and in their place an incomplete compilation of a few ethical and spiritual teachings which had been devised as an appendix to the Law to reform a particular people in particular circumstances, was made an independent, permanent and universal religion.

### **9. Effects of Separation on the Characteristic of Christianity**

The followers of St. Paul began to preach and propagate this incomplete religion (which was not a Christian religion but a Pauline religion) among the independent nations of Rome and Greece leaving alone the Children of Israel. But any religious law devoid of regulatory laws and just based on some moral teachings which had been devised for a servile and downtrodden nation, was useless for nations who were sovereign and invested with political authority and power. There was no comprehensive teaching or guidance in it which could benefit and guide them in different circumstances and situations. It was just a compilation of a few ethical exhortations which were very severe and extreme in nature, and it is quite evident that a nation cannot survive following just these rules. Therefore, its natural result was that the Christians had to bear all sorts of cruelest atrocities and oppressions for nearly 250 to 300 years, because they had been taught only a few ethical principles and they had no guidance at all to take them forward from that stage of their journey. And when, not by their efforts but by mere chance, they got the power to rule, it became impossible for them to lead their life within the impractical and narrow sphere of the Pauline Christianity, and hence, they breached all the boundaries and limits of Christian ethics and morality, and transgressed even the limits of cruelty, tyranny, oppression, bloodshed and destruction.

In the beginning, it was taught and stressed upon the Christians that turning the other cheek when someone slaps the right cheek, and not resisting an evil person in any

circumstance was the lasting teaching of Jesus. Therefore, when their number increased manifold, then also the spirit to oppose and confront oppression and protect their rights could not be generated in them. In 64 A.D. when the number of Christians in Greece, Rome, Syria and Palestine had crossed thousands, the Roman Emperor Nero made them scapegoats and falsely blamed them for the extensive fire which had flattened major part of the City of Rome. Many Christians were arrested and thrown to the wild beasts in the amphitheater; many were crucified; many were burned to death at night serving as 'lighting' in Nero's gardens while Nero mingled among the watching crowds.

After Emperor Nero, Emperors Marcus Aurelius (161-180 A.D.), Septimius Severus (193-211 A.D.), Trajan Decius (249-251 A.D.), and Valerian (253-260 A.D.) tried to obliterate and crush Christianity and its followers. During the reign of Emperor Diocletian (285-305 A.D.) the persecution of Christians transgressed all limits. He issued a general ordinance that churches be demolished, gospels be burnt and the trust properties of churches be confiscated. In 303 AD, the Emperor personally took part in burning down the central church of Nicomedia and the sacred books. In 304 AD, he issued another general audience that every person who insisted on Christianity should be killed. Thereafter, the oppression was made more severe; those who refused to give up Christianity, their bodies were wounded and a mixture of vinegar and salt was poured on the open wounds and then pieces of flesh were cut off the body. Sometimes, the Christians were confined in churches and then burnt alive. To derive maximum enjoyment out of the sufferings of the victims, individuals Christians were forced to lie on burning coals or his body was pierced with sharp rods.

This was the time when Christians were present in large numbers all over the Roman Empire. They held a number of major and minor posts in the government, from



governors of provinces and downwards to domestic helps in the houses of the opulent and in the palace of Caesar himself. But, since Christians had been taught and were made to firmly believe that even being in large numbers and having sufficient power too, the teaching of not confronting the evil and turning the other cheek if the right was slapped was to be followed (which had been taught when the Israelites were living in very weak and helpless circumstances) no Christian – right from Syria, Palestine, Iraq, Egypt, Africa, Spain, Gaul, Sicily, Italy, Asia Minor to other places in the Empire – had the courage even to protest on this persecution and repression, let alone taking up arms and rising to defend their rights and lives, and the entire Christian nation bore this persecution and repression with suicidal passivity and inaction. On the other hand, the Brotherhood formed by Prophet Muhammad (peace be upon him) who had been instructed in the importance of Jihad, stood up to confront the entire Arab nation when their number reached just about 300-400, and it showed to the world that the party with a Jihadist (striving) spirit cannot be subdued in spite of lack of sufficient resources and its number being small.

This was the lower point of extremity of Christianity. After this, when Constantine the Great embraced Christianity and it practically became the religion of the state, it jumped up from the lower extremity to the higher point of extremity. The first ill came into being because Pauline Christianity had nothing to do with society and its politics, and its followers had adopted a purely passive way of life while following its principles. However, when accidentally they were forced to shoulder the responsibilities of running a state, another more severe ill than the first one came into existence, and that was when they began to rule the state not according to the Divine Law but according to the Selfish Law, because Pauline Christianity was bereft of any guidance about governing a

state. The affairs of a state comprise of war, peace, politics, criminal laws, punishment and pardon; but when Christianity got itself separated from the Mosaic Law, it had no laws and regulation of its own to take care of all the aforesaid affairs of the state. For the affairs of human life, except that one law of not confronting the evil and giving away ones tunic when ones cloak is taken away, the Christianity had not formulated any other laws. Since it was impossible for the Christians to take care of the affairs of a state remaining in the narrow sphere of this teaching of debasement and degradation, they were forced to break out of this narrow sphere, and when they came out of it they were free to act and operate according to the edicts of their self. In the practical world there was no Divine guidance or light with them which could guide them to adopt a right path in this respect; its result was that the Christians began to cause such mischief, persecution, oppression and rebellion on the face of the earth that it has not yet ended even today.

In the reign of Constantine, nearly half of the population of the Roman Empire was idol-worshippers; hence he did not dare to persecute them excessively. He was contented with just removal of doors and roofs of the temples and stripping the idol of their clothing and golden ornaments. In some cases the idols were thrown out of the temples.<sup>1</sup> But later on when the Church acquired full dominance over the Empire then the followers of the Christianity made a firm determination to obliterate paganism and promulgated two religious principles under which many rules and regulations could be formulated to eradicate non-Christian religions.

(1) *"That the magistrate is, in some measure, guilty of the crimes which he neglects to prohibit, or to punish; and*

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<sup>1</sup> Rev. Cutts, Edward L., *Constantine the Great, the Union of the State and Church*, p. 278, (London, 1881).

*(2) That the idolatrous worship of fabulous deities, and real demons, is the most abominable crime against the supreme majesty of the Creator."*<sup>1</sup>

To practically implement the principles under contention, they were placed before the senate for consideration and Emperor Theodosius forced the senate to pass a resolution to the effect that the religion of Romans was not the worship of Jupiter but worship of Christ. Thereafter, worship of idols, and offerings and sacrifices on them and all other rituals were legally prohibited and most severe punishments were prescribed for the performers of any of the aforesaid acts. Emperor Theodosius by his ordinances declared all non-Christian ways of worship, whether performed openly or clandestinely at homes, as acts of treason against the Empire leading to capital punishment. Along with this he also ordered demolition of all temples, confiscation of their properties and obliterate all paraphernalia of worship. According to this ordinance, at first paganism was fully wiped out in the Capital by force and then it was repeated in all the provinces. In the Province of Gaul, "the holy Martin, Bishop of Tours, marched at the head of his faithful monks, to destroy the idols, the temples, and the consecrated trees of his extensive diocese." In Syria, the divine leader of Christianity, Bishop Marcellus, who was the bishop of Diocese of Apamea, destroyed the magnificent temple of Jupiter. He raised a full-fledged army and razed to the ground every temple found in his diocese. In Alexandria, Egypt, the Archbishop of Egypt, Theophilus, completely destroyed the temple of Serapis which was one of the most splendid and beautiful monuments of Grecian architecture. Its magnificent library which had the best collection of

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<sup>1</sup> Gibbon, Edward, *The History of the Decline and Fall of the Roman Empire*, Vol. V, Chapter XXVIII, p. 71 (New York, 1907)

books on arts and science was burnt down.<sup>1</sup> The huge idol of Serapis was broken into pieces and its limbs were ignominiously dragged through the streets of Alexandria to create consternation among its devotees. His mangled carcass was burnt in the Amphitheatre, amidst the shouts of the populace. This way, "in almost every province of the Roman world, an army of fanatics, without authority and without discipline, invaded the peaceful inhabitants; and the ruin of the fairest structures of antiquity still displays the ravages of *those* barbarians who alone had time and inclination to execute such laborious destruction."<sup>2</sup>

Because of these persecution and atrocities and fear of sword, the Pagan population of the Roman Empire accepted that religion which in reality they did not believe in, and in just 28 years Paganism was obliterated in the great Roman Empire and Christianity became a major religion in Europe, Africa and the Near East with the might of the Sword.

After this, in each of the wars and battles between the Christians and the non-Christians and between different factions of Christians, setting aside all principles of ethics and humanity, such barbaric ways and methods of war were used that pages after pages of human history have been blackened by their reports. To obliterate the non-Christian beliefs, one of the modes of compulsion and force which the Christians had made lawful on their own was the method of "Inquisition," which had been established under the authority of Popes of Rome themselves. Under the laws

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<sup>1</sup> Mark Antony alone had contributed 200,000 books to this library. Quoting Dasius, Gibbon writes: "Nearly twenty years afterwards, the appearance of the empty shelves excited the regret and indignation of every spectator whose mind was not totally darkened by religious prejudice." This is the library, burning and destruction of which Muslims have been accused of by some of the Christian historians.

<sup>2</sup> All the aforesaid details have been taken from Gibbon's *The History of the Decline and Fall of the Roman Empire*, Vol. V, Chapter XXVIII, p. 84, (New York, 1907).

of Inquisition that were in force the punishments prescribed for "crimes" such as infidelity, atheism, Judaism, Islam, heresy, bigamy, etc. included among others burning alive at stake, hanging, cutting off of the tongues, exhuming even the bones of dead persons and throwing them out.<sup>1</sup> In Spain alone, on the edicts of these notorious papal judicial inquisitions, hundreds of thousands of Christians, Jews, and Muslims were either tortured and forced to accept Christianity or on refusal executed or expelled from Spain. On a moderate computation, the following figures are made available about the casualties of oppression and persecution that took place all over Spain:

*"In the course of the first year in which it was erected, the inquisition of Seville, which then extended over Castile, committed two thousand (2000) persons alive to the flames, burnt as many in effigy, and condemned seventeen thousand (17,000) to different penances. [Mariana, Hist. Hisp. lib. xxiv. cap. 17.] According to a moderate computation from the same date to 1517, the year in which Luther made his appearance, thirteen thousand (13,000) persons were burnt alive, eight thousand, seven hundred (8,700) were burnt in effigy, and one hundred and sixty nine thousand, seven hundred and twenty three (169,723) were condemned to penances; making in all one hundred and ninety-one thousand, four hundred and twenty three (193,423) persons condemned by the several tribunals of Spain in the course of thirty-six (36) years. There is reason for thinking that this estimate falls much below the truth."*<sup>2</sup>

Apart from Spain, the Courts of Inquisition established in Mexico, Carthage, Sicily, Sardinia, Malta, Naples, Milan, Flaunders, etc. the number of people killed under their jurisdiction for having faith in non-Christian beliefs is estimated to be around 150,000.

<sup>1</sup> Encyclopedia Britannica, Vol. 6, p. 328, 15<sup>th</sup> Edition & Vol. 15, p. 191.

<sup>2</sup> M'Crie, Thomas, *History of the Progress and Suppression of the Reformation in Spain in the Sixteenth Century*, p. 104 (London, 1829).

This was the second result of the faulty teaching of the Pauline Christianity. The first result was that when they followed the ordinances of this religion, they became extremely soft and pliable, and in spite of having the power and ability to oppose and resist, they went on bearing the oppression and persecution for nearly three centuries. The second result is that when the turn of events gave them power and they had to shoulder the responsibilities of governing the country, they had to come out of the narrow sphere of Christianity and not finding any guidance in their religion in this regard they began to oppress and persecute their fellow human beings, and in their self-guided zeal they did whatever they wanted to do freely and without any hindrance.<sup>1</sup>

No doubt a few of the Muslim kings and emperors have also oppressed and persecuted human populations; barbarous methods are also found in some of the wars waged by them; and they are also not free from the vilifying stains of waging an irreligious war in the name of religion. But the basic difference between the two is that Islam cannot be blamed for any of the wrong actions committed by Muslims, because it has formulated comprehensive laws and regulations keeping in view all their human needs, in which neither are such unnatural restrictions and restraints whose observance is impossible, nor are there any such liberties or freedoms that they can act in whatever manner they like. Therefore, whatever wrongs have been committed by Muslims come under the definition of unlawful activities and cannot be blamed on the law itself. On the contrary, Christianity has not formulated any laws and regulations to guide its followers in their practical life. It has not guided them how to acquire

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<sup>1</sup> The third and the final result is that when the oppression and persecution and the storm of barbarous bigotry and zeal exceeded its limits, they got disgusted from the religion itself and they began to spread irreligion and impiety all over the world.

power if they are weak and how to use such power after its acquisition; it has not set out the principles on which a peace treaty is to be negotiated and finalized; for what objectives war is to be waged; how to treat the enemy on the battlefield, and how to deal with them after their conquest; what sorts of concessions are to be given to the people following other faiths and religions and to what extent, and what are the specific matters in which they are to be dealt with sternly.

Therefore, the followers of Christianity are not only responsible for the wrongs committed while initially living within its sphere and later coming out of this sphere, but Christianity is also responsible for these wrongs because it has not guided them to the right path. Like Islam, Christianity cannot absolve itself of its responsibility on the basis that its followers did not follow its laws and regulations. It has got to adopt one or the other of the two ways; either it has to declare as sinners all those who shouldered the responsibility of the government, whether they have fulfilled it justly or unjustly; or declare them as innocent of any sin who have shouldered it justly or unjustly. It cannot adopt any third way to deal with them, and it is apparent that the aforesaid two ways of dealing with them are not just and reasonable.

## **AN OVERALL VIEW OF THE TEACHINGS OF THE FOUR RELEGIONS**

We have described above the views and teachings of the four major religions of the world (Hinduism, Judaism, Buddhism, and Christianity) on the issue of war. These views and teachings present two different views at the lower and higher ends of extremity. According to Hinduism and Judaism waging war is lawful; but they have allowed it for every selfish and self-motivated objectives and desires of their followers. They do not distinguish between just and unjust war, do not present before man any lofty goal, and

also do not invite his attention to any loftier ethical objective; rather based on purely bestial instincts they give man the right to oppress and commit excesses on fellow human beings in whatever way he wants and for whatever purpose he wishes, and take away from them whatever he wants. When they could advance a little from the barbaric to the civilized ways of committing such excesses, they formulated a few regulations, and have demanded from their followers to follow certain ways and desist from some whenever they want to hound and plunder their fellow human beings. Along with this, these religions have divided the humanity on the basis of geography, race and colour, and have given such concessions and privileges to the people belonging to a particular race that are denied to other human beings.

On the other hand, the other two religions, viz. Buddhism and Christianity, feel that it is not correct to give freedom to human beings to hound and plunder other fellow human beings; but this feeling takes them to the other extreme point. Battling with the concept of war they begin to battle with the human nature itself. They want to annihilate some of those different powers and faculties which Allah has bestowed in man to maintain human way of life on a balanced and even keel, and allow some other powers to dominate the human character and behaviour. The outcome of this is that those people who follow this teaching fall into the deepest pit of regression, subjugation and suppression, and those who, compelled by their natural instincts, find themselves unable to follow it and are forced to fulfil their obligations and duties as human beings find no guidance in any of the segments of practical life. Perforce they have to follow their own perceptions and inclinations wandering from one end to the other.

Between these two points of lower and higher extremity, Islam has opened out a moderate and rational route. Keeping in view the exigencies and demands of the



human nature and needs, and, very importantly, the objective of reformation of human race, Islam divides war into two kinds. One is that war which is fought for the acquisition of wealth, riches, political power and for various selfish motives. The other kind is that war which is fought to uphold the Truth and to annihilate persecution and oppression. It declares the first kind of war act of mischief, persecution and the worst kind of sin, and ordains man to completely desist from it. It declares the second kind of war, if it is fought purely for the Truth without any semblance of selfish motives, as a war in the Cause of Allah, the best form of worship, the most sacred duty, and the loftiest and the most excellent service to humanity. Moreover, for this kind of just war Islam has formulated and promulgated rules and regulations and has fixed limitations; has described the occasions and circumstances when it is to be waged; has given the details of its objectives; and has very clearly set out and explained the ways and means of prosecuting it so that no Satanic and evil acts are committed in the Name and Cause of Allah, and so that man does not go astray by following his selfish desires and motives.

This is such a complete and foolproof code of law with regard to war that a match of which cannot be found in any other religion or civilization except Islam. In some religions, while we find clear modes of prosecuting war, we do not find clear fixation of its objectives; in some we find objectives, but we do not find any clear guidance as to the modes and methods to be adopted while prosecuting it. In some, although objectives and modes and methods have been described to a certain extent, but there is no nobility and loftiness in them which is the hallmark and distinguished characteristic of Islam. Hence, this is an undeniable fact even today that if any religion has ever tried to completely restrict war in its natural boundaries, take it from a barbaric encounter to a civilized

confrontation, from the lowest rank of oppression to the highest point of justice, and from the stage of sin to the loftiest position of piety and sacred duty, it is only Islam that has accomplished it. By adopting this Islamic Law of War the world can save itself from that curse which is known as oppression and that anathema which is called tyranny and misery.

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## CHAPTER VII

### WAR UNDER MODERN CIVILIZATION

In this Chapter we would like to analyse the objectives and the laws of war in the existent civilization and find out their status in relation to ethics and humanity. After going through our previous discussions on the subject, one might say that: "Indeed Islam had carried out very valuable reformation in the human society and civilization in the past and has guided man towards such objectives and methodology of prosecuting war which its contemporary civilization and religions were unaware of. But, today the effects of centuries of progress have brought in maturity in the human thoughts about war resulting in formulation of more civilized laws of war, and hence the laws formulated when the human intelligence and thoughts were in their infancy cannot hold ground against these modern civilized laws." Therefore, there is a need for another comparison where Islam and the modern civilization are placed face to face and see whose objectives and methodology of prosecuting war are more correct, enduring and beneficial.

Before commencing the task of comparison, it is necessary to decide about the source to which we should turn to ascertain the actual laws of war of modern Western civilization. There are usually three sources from which we can ascertain the beliefs and the methodology adopted by any human society or group about a particular issue: (1) religion; (2) literature; and (3) the conduct of the society. As far as religion is concerned, the modern civilization has declared it as a personal affair of individuals and that religion has no control over the civilized life of the modern world.

As far as the literature is concerned, no doubt, the West has a large stock of it. The Western jurists and

doctors of ethics have written a lot about war and its appurtenances, and have discussed every aspect of it. But however deep might be the effects of the thoughts of these scholars on the development and progress of the collective thoughts and however great might be their contribution in the formulation of social laws, they, on their own, do not command such a power that their thoughts could be declared as a final word for the human society. None of the greatest writers of the world has the distinction to claim that any of his sayings or writings has the merit to become a law of his nation. It is quite possible that a nation might have formulated many laws after getting influenced by the sayings and writings of a particular scholar; however these laws are not merited as laws because of them being the sayings of that scholar but they are merited as laws because they have been adopted by his nation as laws. Hence, as far as the issue of war is concerned, that vast literature is useless for us which the Western scholars have produced through their valuable scholarly works in different Western languages.

Now, only the third source remains from which we can find out the objectives and methods of Western civilization of prosecuting war, and it is the Western nations' practice of war. This practice is of two kinds: one is a codified or a written one, which is known as International Law; and the other is unwritten law or the one which has not been codified, which concerns practical politics and mutual relationships of different countries and governments. There are immense differences between the Western scholars themselves and it has not been possible to decide upon even today as to which of these two laws is more reliable and creditable; in the event of differences which law is to be relied upon; and which law has the ability to become the final word for the Western nations. However, we need not enter into an argument with this fundamental question. Naturally, the different aspects of war have got divided into

these two laws in such a way that the ethical aspect of the war has come into the sphere of unwritten law, and the written law has taken over its practical aspect. Therefore, leaving aside the question of preference, we will discuss both these aspects separately.

## ETHICAL ASPECT OF WAR

In the investigation of the issue of war, according to the methodology we have adopted so far, the ethical aspect of war comes first. In the first instance, we have to see how the Western civilization views war; what is its status in its system of ethics; what are the objectives of war which it considers lawful and unlawful; if it has any such objectives, what is its most honourable and loftiest goal and objective; and if it has no such goal and objective, what status it gets in the world of ethics and civilization. After solving all these questions, the question of the correctness or otherwise of the laws pertaining to the ways and means adopted in prosecuting war comes into play.

The codified law of the West is silent about the aforesaid questions. In the earlier age, the question of ethics in the International Law used to be considered as a relevant question. Hence, the first codifier of this law, Hugo Grotius, in his book *De Jure Belli ac Pacis* (*On the Law of War and Peace*) has tried to differentiate between the lawful and unlawful objectives of war. However, the modern International Law has declared this question irrelevant for discussion. Prof. Lawrence writes in his book *The Principles of International Law*:

*"But modern International Law knows nothing of these moral questions. It does not pronounce upon them; it simply ignores them. To it, war, whether just or unjust, right or wrong, is a fact which alters in a great variety of ways the relations of the parties concerned. It must, therefore, be defined and its legal incidents set forth. Law will tell us how the relation of belligerency is created, and what are the rights and obligations of belligerents towards each other*

*and towards neutrals... Such questions as these are worthy of the most careful consideration; but they are as much out of place in a treatise on International Law as would be a discussion on the ethics of marriage in a book upon the law of personal status."*<sup>1</sup>

Prof. Nippold writes:

*"It is a fact that war is not a legal institution but simply the application of force. War is struggle, employment of force, and in so far as it is to serve the enforcement of claims it is self-help. This is the definition military science gives of war, and with this the science of international law should have contended with itself; for from the definition of war it already appears that war, considered as a whole, is outside the sphere of law."*<sup>2</sup>

From the above, it is understood that as far as the codified International Law is concerned, no distinction has been made as to the just and unjust, lawful and unlawful war, and from this law we cannot find out for what objectives the Western civilization declares a war lawful and for what objectives unlawful. However, it is a fact that there is an unwritten law too which is the actual law. Therefore, we have to study the actions of the most civilized nations of the West in this regard, those nations whose actions are considered the benchmark and criteria of modern civilization, whose every attitude and disposition is deemed to be the building blocks of civilization, and nothing can be regarded as modern civilization which are found alien to these characteristics. Therefore, it is necessary to find out the objectives and the purpose for which war is waged between these civilized nations and what type of war they consider as a just and truthful war. For this purpose, we are not going to study those smaller battles and wars which were fought in the 19<sup>th</sup> and 20<sup>th</sup>

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<sup>1</sup> Lawrence, Thomas Joseph, *The Principles of International Law*, (Boston, 1900) p. 292.

<sup>2</sup> Nippold, Otfried, *The Development of International Law After the World War*, p.7, (Oxford 1923).

centuries between the civilized (according to the viewpoint of the West) and the uncivilized nations. Leaving aside these wars, we shall study only the First World War<sup>1</sup> which was fought in the 20<sup>th</sup> century in which all countries, who were the flag-bearers of Western civilization, took part; or in other words in whose "general assembly" every civilized nation of the modern world had a representation. The proceedings of this War can tell us about the moral standards adopted by the Western civilization to distinguish between a lawful and an unlawful war.

### **1. The First World War – Causes**

The First World War (1914-1918) was actually a war between the six larger nations of Europe, although collaterally other smaller nations had also participated in it. One group comprised of Germany and Austria-Hungary, and the other comprised of England, France, Russia and Italy. There were intense historical rivalries between the nations which comprised these two confronting blocks. England was an age-old enemy of France inasmuch as, in 1899 A.D., they were about to go to war on the issue of Sudan. There was such severe animosity between England and Russia that till the beginning of the 20<sup>th</sup> Century there was danger of Russia attacking India which forced the British government to keep its armed forces fully alert to face any war-like situation. The issue of Tunisia had been the source of rivalry between France and Italy for nearly half a decade and that was the reason that Italy was allied with Germany till the beginning of the First World War. But in the first decade of 20<sup>th</sup> Century because of some selfish motives and objectives these hostile nations came

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<sup>1</sup> It should be kept in mind that this book was written after the First World War. Therefore, we are discussing here the ethical aspects pertaining to this war only. After this, the world faced another World War whose ethical aspect was still more abominable.

together and formed an alliance and waged war against the other group of nations. On the other hand, Germany was a friend of England till 1904; she had an alliance with Italy till 1914 and was allied with Russia till 1908; rather, the Czar of Russia and Kaiser of Germany were good friends till the start of the World War. But there were other motives which turned this friendship into enmity and forced Germany to wage war against her former allies forging alliance with Austria-Hungary which was once her adversary.

## **2. Groupings of Nations**

Now, the question that arises is what were these special motives? Religion was not an issue at all as all the nations were Christians. It was not even the question of defence as no nation had attacked another nation, nor was it an issue of rights because every nation was enjoying fully its rights. Then what was the issue that incited them to fight each other? History tells us that it was nothing except that every nation wanted to grab more than its share, and it was the desire of every nation to either annihilate or suppress the other to acquire more and more of its rival's wealth and natural resources.

The first seed of enmity was sown between these nations in 1870 when Germany captured the French territories of Alsace and Lorraine. Although the entire population of Alsace and the majority of the population of Lorraine were of German descent and spoke German language, the French government considered their annexation by Germany a violation of her territorial rights. From that day onwards it became the prime objective of the French politics to defeat Germany and regain these provinces.

Thereafter, Germany's development and progress in trade and industry commenced and by the end of the 19<sup>th</sup> Century it became world's greatest industrial and



commercial country. In 1900 Germany felt that England has dominance over marital trade and that this dominance cannot be broken without the development and creation of her own powerful and formidable naval power. Hence, she began to develop her naval power and capabilities speedily. England soon noticed this threat and initially tried to befriend Germany. From 1898 to 1902, Mr. Joseph Chamberlain, Lord Lansdowne and other British Statesmen tried to reach an understanding and form an alliance with Germany. But Germany was not ready to accept British naval and commercial dominance and supremacy and wanted to become a dominant power herself. Therefore, both of them could not forge an alliance. Soon rapid changes began to take place in the world of politics. It first appeared in 1904 when centuries-old enemies, England and France, forged an alliance. France recognized British control over Egypt, while Britain reciprocated it by recognizing control of France over Morocco. Thus both the countries forged an alliance and struck various agreements to achieve their respective objectives.

Thereafter, in 1907 Russia also joined this group. Russia had two objectives in view in entering into this alliance. One, she wanted to occupy Bosphorus and Dardanelles strait which she was trying to do for the past 150 years. Two, she wanted to occupy and dominate the Balkans so that she could have a clear access to Aegean Sea and thereby to the Mediterranean Sea. Germany and Austria were the two adversaries who were hurdles to Russia in achieving these two objectives. Germany wanted to establish a railway line from Berlin to Baghdad to promote her eastern trade and commercial activities; for which she wanted to keep Turkey and Balkans free from the influence of Russia. On the other hand, the only way for Austria-Hungary to fulfil her ambition to expand its territories and its trade was to conquer the Balkans and use the ports of Aegean and Adriatic for her own advantage.

Therefore, she had annexed the territories of Bosnia and Herzegovina in 1908. Till 1907, Britain was opposed to the political objectives of Russia. But when she realized that she cannot be successful in annihilating Germany alone, she extended her hand of friendship towards Russia, her age-old enemy, and assured her that at an appropriate time she would help her in conquering and annexing Bosphorus and Dardanelles.

In this way, by 1907 two powerful alliances were formed. One alliance comprised of Britain, France and Russia, and the other comprised of Germany and Austria-Hungary. The objective of the partners of the first alliance was that they wanted to annihilate the opposing forces of Germany and Austria-Hungary in order to expand their dominions and keep intact their trading and commercial superiority over others. The second alliance was formed because each member of the alliance required the assistance of the other to forge ahead and obtain supremacy in the world's commercial and economic life. Italy had not allied with any of the groupings. Outwardly, she was allied with Germany. How Italy left her ally Germany and formed an alliance with her enemy, France, is an amusing story. Italy had formed her relationships and had made treaties with each of the other five governments in such a way that when she required the help and assistance to fight France in order to conquer and occupy Tunisia, she could demand help from Germany, and when required to wage war against Austria-Hungary to annex some of her territories (which she wanted to do since a long time), she could seek help and assistance from the Allies. At the start of the World War I, when Italy realized that the great British naval power was with France and that against this power Germany cannot help her in conquering Tunisia, suddenly she broke away from the alliance and joined the Allies and declared, wearing the deceptive cloak of "truth," that she

considered Germany and Austria-Hungary to be in the wrong and therefore could not associate with them.

### **3. Outbreak of the War**

On June 28, 1914, when Archduke Franz Ferdinand, heir to the Austro-Hungarian throne, was assassinated by a Serbian anarchist, the crop of mischief and strife which had been sown and being irrigated for the past 44 years had ripened and was ready for harvest. Austria perceived this incident as an opportunity to remove Serbia which was a hindrance in her path to capture the Balkans. Germany also considered annihilation of Serbia essential for the fulfilment of her plans to expand her trade and commerce in the region, and hence she allied herself with Austria-Hungary. On the other hand, Russia considered Serbia as her "kid-brother" and all her ambitions and hopes with regard to Balkans were dependent upon and linked with Serbia. Further, she strongly believed that if Austria were to conquer Serbia, nothing would stop her in conquering the Balkans. Therefore, Russia rose to defend her kid-brother. On another side, France apprehended that after conquering Serbia and Russia, Germany and Austria would become so powerful that leave alone taking back the territories of Alsace and Lorraine, it would be impossible to even retain Paris under her control; therefore France also extended her support to Russia. After this alliance it was impossible for Britain to remain aloof. This so-called "devotee of truth" had taken many moral and ethical responsibilities upon her shoulders on her own accord, for the discharge of which she felt that it was necessary to remove the growing threat of Germany from the path of her naval and trading supremacy, and, therefore, she also rose with all her armament, and that fiercest and the most vicious and barbaric war between the "civilized nations" took place in the world which surpassed all the previous

wars that were fought between the so-called "uncivilized nations."

#### **4. Aims and Objectives of the Participants of the War**

Every nation which participated in this War claimed that it was forced to participate in it in order to protect its "sacred" rights. They claimed that their objective was not only protection of their rights, but also professed that their other principal objective was to free the weaker and suppressed nations and establish justice, peace and tranquility in the world by annihilating the powers of tyranny and oppression. But during the war and after the war, the manner in which these "devotees of truth" bartered and divided the conquered countries and territories amongst themselves clearly showed the real meaning of "truth" in the vocabulary of the Western civilization.

In 1917, Emperor Charles I of Austria-Hungary had tried to separately enter into truce with England, France and Italy after disassociating with his allies. For this purpose he entered into negotiations with the Allies through Prince Sixte of Bourbon-Parma. The Prince himself has written down all the details about these negotiations which were later published under the title "*Austria's Peace Offer*." By a study of these negotiations, the nature and mode of "barter" that was being carried out in the "commodity" of nations and countries can very well be understood. England and France had persuaded Italy to participate in the war on the promise that the southern territories of Austria would be allotted to her as part of her booty. Because of this promise, Italy opposed any truce with Austria. On the other hand, France particularly wanted to break the alliance between Germany and Austria-Hungary and hence it exerted extreme pressure on Italy to accede to the offer of peace from Austria-Hungary. But Italy opposed it so vehemently that the Allies feared that abandoning the "truth" Italy might again join the "untruth" (i.e. Germany). M. Paul

Cambon, who was the French Ambassador in London at that time, avers in one of the meetings he had with Prince Sixte de Bourbon:

*"We shall have to proceed with utmost caution; for Italy's ambition inspires her to all kinds of mischief."*<sup>1</sup>

In another meeting he says:

*"She (Italy) had announced again and again that she had come into the War solely to conquer the territories she coveted."*<sup>2</sup>

The brother of Paul Cambon, M. Jules Cambon (who was earlier French Ambassador in Berlin), opposed these negotiations on the basis that:

*"There can be no doubt that in forty-eight hours after Peace is signed, Italy will be in the arms of Germany."*<sup>3</sup>

On another occasion he expresses:

*"Italy will do nothing for us. She has only one idea, to perfect her preparations for joining the economic struggle after the War, when all the other Allies are exhausted."*<sup>4</sup>

These were the secret objectives of these "devotees of truth" and their opinion with regard to each other, who were fighting jointly for the sake of "truth." And at last when it was finally realized that Italy was not ready to enter into peace with Austria-Hungary giving up her expansionist policy, the other allies asked Austria-Hungary to abandon those territories in favour of Italy which Italy coveted, and that they would, in exchange, give her the territories of Silesia and Bavaria after their conquest from Germany. It should be remembered that these two provinces were inhabited by German race and were the inalienable parts of German nation. But the Allies were ready to transfer them to Austria-Hungary as though they were under their

<sup>1</sup> Prince Sixte de Bourbon, *Austria's Peace Offer 1916-1917*, p. 103, (London 1921).

<sup>2</sup> *Ibid*, p. 173.

<sup>3</sup> *Ibid*, p. 28.

<sup>4</sup> *Ibid*, p. 173.

dominion, and the interesting part is that Austria-Hungary declined to accept these territories not because they belonged to her former Ally, Germany, but because they were not under the dominion of France, or England or Russia, and it was doubtful whether the Allies had the power to capture these territories from Germany and transfer them to Austria-Hungary. Thereafter, a search was made for other territories so that they could be transferred to Austria-Hungary to compensate its losses. Initially, they had their sights on Tripoli; but Italy refused to vacate it as she had a persistent dream of creating the ancient Roman Empire for which she required the entire territory of Carthage. Then Eretria and Somalia were offered; while Italy was not interested in them, Austria-Hungary was prepared to accept them. However, for some reasons this issue could not be successfully concluded, and because of the greed of Italy the peace negotiations between Austria-Hungary and the Allies could not be concluded.<sup>1</sup>

### 5. Secret Treaties and Understandings

The other chapter of this "barter" comprises of those secret treaties and understandings made among the Allies during the early periods of the War. These plots of international robbery would have, perhaps, remained hidden but for the revolution in Russia during the World War I. In 1917, when the government of Czar was overthrown and a Bolshevik (Communist) Government was established, to unmask the Capitalists the Bolsheviks published all those documents concerning the secret treaties they found in the archives of the Czarist Government. This revelation suddenly laid bare the loathsome and disgusting diplomacy of these "civilized" nations before the entire world. There was not a single clause in these documents by

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<sup>1</sup> Prince Sixte de Bourbon, *Austria's Peace Offer 1916-1917*, p. 139, (London 1921).

which these "devotees of truth" had not decided to divide amongst themselves some territory or the other and some source or the other of the economic wealth of the opposing governments.

The first matter which was decided upon was that the Provinces of Alsace-Lorraine would be restored to France. Although Germans formed majority of the population in these two provinces and geographically too they were connected with Germany than France, it was proposed to be restored to France just because before 1870 they were under French occupation. Another thing which was decided upon was the German territories lying to the west of the River Rhine would be handed over to France. This decision was kept secret by both Russia and France even from their ally England and it was revealed when the talks about division of war booties commenced after the War at the Paris Peace Conference. The third decision was that Morocco, which was a protectorate of France, would be recognized as her domain, and that France would also be given a share in the German African colonies and territories of Turkey."

This was the share of one of the "devotees of truth," France. Along with France, it was necessary to satisfy Italy too, because that "poor fellow" had joined the Allies just for the "cause of truth" breaking its alliance with the "untruth." Therefore, it was agreed to reserve for her the territories of Trentino, Trieste, and Western Tyrol. The entire coastal strip of Adriatic and many islands were also apportioned to her, and she was also promised a substantial share in the Turkish territories.

In Russia, the foremost standard-bearer of "truth" was Emperor Czar, and therefore his share in this business could not be less in view of his status, pomp and splendour. The first agreement with Russia concerned Poland, the gist of which was that Russia would have the authority to take every possible and reasonable action to destroy the Polish

spirit and movement for independence. This is the Poland which was assured of independence at the beginning of the War, and just because of the intransigent attitude of Russia, the responsibility of its protection was again taken up by England and France.

The other Treaty concerned Constantinople and the Straits. Six months before the outbreak of War itself, the Russian Crown Council had decided that it was not desirable to delay annexation of Dardanelles and Constantinople, and hence commenced preparation for war. And when the First World War commenced, the first thing Russia thought of was discharging of this "moral obligation," and under the secret treaty of 1915 she made her allies to concede that out of the war booties, she would be apportioned Dardanelles, Bosphorus, Constantinople and the eastern part of Asia Minor. The Russian historian of 1922, Barron S.A. Karff writes that according to this secret treaty the entire Ottoman Empire and Austria-Hungary were declared as war booties and were decided to be divided amongst the Allies; under this division, Constantinople, Dardanelles and Bosphorus were absolutely apportioned to Russia.

Now, as far as Britain was concerned, who was leading all the "devotees of truth," she was not contended with the German colonies in Africa and Asia and desired to have something grand befitting her power and grandeur. In March 1915, five months after the declaration of war against Turkey, Britain signed an initial secret treaty with France, according to which the Arabian territories were divided into two zones; one Syrian Zone and the other Iraqi Zone. The first zone was agreed to be under the French influence and dominance, and the second zone was agreed to be under the control of Britain. The success of this division was not possible without the help and active participation of the Arabs, and after coming to know about this secret arrangement, it would have been very difficult for the Arabs to willingly participate in their own conquest.



Therefore, this initial treaty was kept secret and the Arab leaders were assured that if they joined the Allies and overthrew the Turkish government in Arabia, a new independent Arabian state would be established for them comprising of all the Arabian territories excluding Southern Iraq and the coastal Lebanon. This charming dream of independence suddenly breathe in a new spirit in the Arabs and in October 1915 (i.e. nine months after the secret treaty between Britain and France) they signed a treaty with the Allies through Sir Henry McMahon, according to which their entire force got allied with the Allies. In return they got an assurance on a piece of paper that after the end of war, a permanent and independent Arab State would be established. Soon after this treaty, in June 1916, Sharif Hussain declared war against Turkey. Gradually the revolt spread to Iraq, Syria and Palestine. In a few months, it became clear that the Turkish Government in Arabia would not last long and that Britain and France would be able to achieve their mutual objective. Therefore, in 1916, negotiations were again held between Britain and France and a new secret treaty came into existence which is known as Sykes-Picot Agreement. According to this Agreement, it was decided that Iraq would be completely under the occupation of Britain; Syria would be under the dominion of French State; Palestine would be an international territory, which, including Haifa, would be under the control of Britain. The remaining territories which were in between Iraq and coastal Syria would also be divided into two zones – one would be under the control of Britain and the other under France. Under this agreement, the English representative Sir Mark Sykes had agreed Mosul to be under the control of France. According to an earlier secret treaty of 1915, it had been decided that Armenia, eastern Kurdistan and the Turkish territories which were contiguous with the borders of Mosul would be apportioned to Russia. Since Britain did not want her borders to run

contiguously with those of Russia, she thought it better to have the French territory of Mosul in between her and the Russian borders. Since Britain always wanted to possess the rich oil fields of Mosul, when the Russian threat was no more, without caring for her friendship with France, she ultimately got possession of Mosul too.

## **PARTITION OF THE COUNTRIES AFTER THE WAR**

The above were the ambitions, plots, intrigues and objectives with which the "truth-loving" Western nations participated in the War. Now, let us see how these nations proved their "love and fervour for truth" after the War.

In the last days of the War, two events occurred which completely changed the scenario that had been created by the aforesaid secret treaties negotiated and finalized between 1915 and 1917. One was the entrance of the United States of America in the War on the side of the Allies, and the other was the Russian Revolution. Giving up its old policy of maintaining strict neutrality, America entered the War just because she wanted peace and tranquility for the success of her trade and commerce. Hence, her utmost endeavour was that after the War there should not be any irregularities in the division of war booties which could form a foundation for another war. The other event was the October 1917 Russian revolution which dethroned the Russian Monarch under whom the War was being prosecuted, and brought to power the Bolshevik party which was posing a greater threat and impediment than Germany in the achievement of the objectives of England, France and Italy. Therefore, the share which was reserved for Russia in the war booty was abrogated, and the "devotees of truth" had to devise a new plan where care was taken to give due consideration to the peace-loving aspirations of the United States.

It has already been stated that in the secret treaty of 1917 between Russia and France, it had been agreed that the territories situated on the western Bank of the Rhine should be taken away from Germany and appended to France. At that time when Prince Sixte had suggested to the French President, M. Poincare that the territories on the Rhine be declared as a neutral zone, the "truth-loving" French President had smiled and said: "One could not always say everything one felt, but that his views and the Prince's were practically the same."<sup>1</sup>

Thus, France had made up her mind during the course of the War itself to treat Germany in the same manner as Germany had treated her in 1870. But France very well understood that annexation of the fertile and rich territory of the Left Bank of the Rhine by her would be against the policy of both England and America. Therefore, during the war she kept her ambition hidden from her other allies. At the end of the War when France placed her demand in this respect in the Paris Peace Conference, as expected, Britain and USA strongly opposed it. In the Conference, fiery and passionate debates took place and in spite of France's persistence, both the Powers did not agree for permanent annexation. Eventually, M. Clemenceau, Prime Minister of France, proposed that to guarantee repayment of the war reparations which had been imposed on Germany, France be allowed to occupy the left bank of the Rhine for 15 years. No one, including the political leadership of France, could understand the objective behind this suggestion, and French President Poincare and French Marshal Foch opposed it in the Cabinet meeting. But when M. Clemenceau assured the House that the objective of fixing the period of 15 years was to take away from Germany her most fertile and productive territories; impose on her such

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<sup>1</sup> Prince Sixte de Bourbon, *Austria's Peace Offer 1916-1917*, p. 99, (London 1921).

heavy reparations and damages that she would never be able to repay resulting in the Rhineland remaining under the occupation of France even after 15 years, the members of the House were mollified. The following excerpt of M. Clemenceau's address manifests the French Government's true intentions and their "devotion for truth." Addressing President Poincaré, he said:

*"In fifteen years I will be dead, but if you do me the honour of visiting my tomb, you will be able to say that the Germans have not fulfilled all the clauses of the treaty, and that we are still on the Rhine."<sup>1</sup>*

This plan worked. France got her proposal approved from her allies and to achieve her objective Germany was dispossessed of the coal mines of Silesia so that Germany could not repay the heavy reparations imposed on her under the Peace Treaty in the stipulated period of 15 years. Along with this, the borders of the newly created State of Poland were drawn in such a way that the territories of the Eastern Prussia were severed from the remaining territories of the State of Prussia. This resulted in the creation of such a difficult situation which cannot be solved without Germany confronting Poland soon after coming out of the sanctions imposed on her.<sup>2</sup>

Again in 1922, when France apprehended that in spite of the imposition of tough reparation regimen, Germany would be able to get the Rhineland released from Allied occupation in 15 years, she decided to make another assault on her victim. The French Cabinet appointed the President of the Finance Committee to look into the question as to how far it would be beneficial to occupy the territories of Ruhr. After a long deliberation, he submitted a confidential report which recommended that the occupation of Ruhr

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<sup>1</sup> David Watson, *Georges Clemenceau: A Political Biography* (1976) pp. 351-352.

<sup>2</sup> This really happened in 1939; World War II commenced with Germany's attack on Poland.

should not be temporary but a permanent one. Hence, according to this recommendation, France ordered his troops to occupy the Ruhr Valley, and took away from Germany that territory on which her industrial and economic life depended.

The aforesaid confidential report of the French Finance Committee stressed the importance of this territory for the economic well-being of Germany. It stated that in 1913 the amount of coal that was produced from the entire coal-mines of Germany was 191 million tons, out of which Ruhr Valley contributed 115 million tons. Out of this, 55 million tons was stocked, 10 million tons was used for producing gas and 45 million tons was used in mining other minerals and metals. Out of the entire quantity of 32 million tons of other minerals and metals mined in Germany, the production from Ruhr alone was 25 million tons. During the distillation process, the industries in Ruhr used to produce 500,000 ton ammonium sulphate and 400,000 ton of resin used in the manufacture of paints. Most of the paint industries were located in Ruhr which used to manufacture world-class paints. Perfumes, medicines, paints, ammonium sulphate, resin and products made out of resin were the major products of German industry and they all depended on coal. After the war Ruhr remained the only source for Germany to obtain coal for all her needs, because during the War she had lost entire territory of Saar which used to supply 18 million tons of coal every year. Hence, there remained no other area with Germany other than Ruhr which could supply the required coal. Similar was the case with regard to other minerals and metals. Before the War, Germany used to produce 19 million ton of iron, out of which the share of Ruhr was 9 million tons. The remaining 10 million tons came from Lorain and Upper Silesia which were no more under the German domain.

From the aforesaid description, it is very clear that the main objective of France to occupy Ruhr Valley was to

deny Germany use of her natural resources and thus devastate her economy, and instead France wanted not only to reap benefit from these natural resources but also make Germany default in the payment of reparations so that it could retain permanent control over the territories of Rhine.

To fulfil the avaricious ambitions of Italy, she was allotted not only the territories of Trieste and Trentino, but also the Southern Tyrol was appended to her which was predominantly inhabited by Germans. Although, according to the secret treaties the coastline of Adriatic and its islands had been apportioned to Italy, they could not be handed over to her because the emergence of Serbia as a new power became an impediment in the implementation of the plan, and the division of Adriatic was done in such a way that neither did it fulfil the objectives of Italy nor that of Yugoslavia. This paved the way for continuous confrontation between the two nations and no one could predict when this would result in war.

The dangers of dividing Europe in the aforesaid unbalanced and uneven manner had been perceived by those very people who had been deciding the fate of the world. Hence in 1919 the British Prime Minister, Lloyd George submitted a memorandum to the Peace Conference in which, among other things, he had portrayed leaving millions of Germans under the dominion of other nationalities a very dangerous act and had warned that this action could result in the entanglement of Europe in another war. The following excerpt from the Memorandum is worth consideration:

*"The whole of Europe is filled with the spirit of revolution. There is a deep sense not only of discontent, but of anger and revolt amongst the workmen against pre-war conditions. The whole existing order in its political, social and economic aspects is questioned by the masses of the population, from one end of Europe to the other. ...The greatest danger that I see in the present situation is that Germany may throw in her lot with Bolshevism and place*

*her resources, her brains, her vast organizing power at the disposal of the revolutionary fanatics whose dream it is to conquer the world for Bolshevism by force of arms."*<sup>1</sup>

Mr. Lloyd George was not a helpless journalist, but was one of the four most influential personalities and leaders of the Paris Peace Conference. If he wanted, he could have pressed on with his Memorandum and would not have allowed the division of Central Europe in an unjust manner, dangerous repercussions of which he himself had perceived. But the avarice or that "devotion of truth," for which they had prosecuted the war, made them do all those things which they themselves thought would be harbingers of another war.

The aforesaid was the manner in which the "devotion of truth" was manifested in Europe. Now, let us look at Asia and see what these prosecutors of war for the "truth" did after winning the war there. Details about the secret treaties drawn in 1915 and 1916 have already been mentioned elsewhere in this book. According to these treaties Iraq, Syria and Palestine, had already been decided to be partitioned between Britain and France during the war itself. But till the end of the War, the Arabs were repeatedly being assured that the War in the Arab lands was being fought just to liberate the Arabs from the tyrannical rule of Turkey and establish an Arab State. On March 19, 1917, when General Stanley Maud entered Baghdad, he issued a Proclamation to the Arabs which read as follows:

*"Our military operations have as their object the defeat of the enemy, and the driving of him from these territories. In order to complete this task, I am charged with absolute and supreme control of all regions in which British troops operate; but our armies do not come into your cities and*

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<sup>1</sup> Baker, Ray Stannard, *Woodrow Wilson and World Settlement*, Vol. 3, pp. 449-454 (New York, 1923).

The result apprehended did not materialize then. But because of the happenings of the Second World War, there is a strong possibility of this becoming a reality.

*lands as conquerors or enemies, but as liberators. ...But you people of Baghdad, whose commercial prosperity and whose safety from oppression and invasion must ever be a matter of the closest concern to the British Government, are not to understand that it is the wish of the British Government to impose upon you alien institutions. It is the hope of the British Government that the aspirations of your philosophers and writers shall be realized and that once again the people of Baghdad shall flourish, enjoying their wealth and substance under institutions which are in consonance with their sacred laws and their racial ideals."*

After the end of war, France and Britain again issued a joint-declaration, in which they claimed:

*"The aim of France and Great Britain in carrying on in the Near East the war let loose by Germany's ambitions is the complete and final liberation of the peoples so long oppressed by the Turks and the establishment of governments and administrations deriving their authority from the initiative and the free choice of the native populations.*

*"In view of following out this intention, France and Great Britain are agreed to encourage and help the establishment of native governments and administrations in Syria and Mesopotamia actually liberated by the allies, and in the territories they are now striving to liberate, and to recognize them as soon as effectively established."*

However, in spite of these wordy proclamations and declarations, when the Arabs noticed the actions of the Allies to be quite different in that the French forces had occupied the coasts of Syria, and the British were in virtual occupation of Iraq and Palestine, they realized that they have actually been deceived and that it was a ruse played on them to capture their lands by sowing the seeds of division between them and the Turks. Eventually, the Arabs commenced their struggle for independence in Iraq and Palestine, and in Syria they established a national government under Amir Faisal bin Husain. In the meantime, there began developing a series of mutual hatred



and rivalry amongst the Allies (particularly between Britain and France) with regard to the division of the spoils of war pertaining to the Middle Eastern territories. According to the Sykes-Pico Agreement, the territory of Mosul in Iraq was to be given to France, but the presence of large deposits of oil in Mosul triggered the avaricious sense of Britain and she herself occupied it. Similarly, it was decided that Palestine would be considered an international territory and that only Haifa would be under the British government. However, the insurrection in Egypt forced the British government to strengthen her rule over the territories lying on the other side of the Suez Canal in order to safeguard its corridor to India, and if possible create another corridor from Haifa to Basra; to achieve this objective, the British government made a determination to occupy the entire territory of Palestine. On the other hand, the British government did not want France to occupy Syria and thought it ideal, in view of its own priorities and policies, to establish a national government there under its own influence and authority.

These disputes and rivalries continued between these two "friendly nations" (Britain and France) for nearly 18 months and no decision could be reached as regards the division of the spoils of war. When Britain and France realized that because of their dispute and rivalry, the Arab national movement was gaining momentum, they joined hands and got united against the Arabs in order to achieve their mutual goals and held a conference at San Remo, Italy, from April 19-26, 1920. It was decided at the Conference that Iraq and Palestine would be under the occupation of Britain and the whole of Syria would be occupied by France. This division and occupation of the Arab territories was not any different from the division which is made by a group of dacoits after looting a household. But these "civilized dacoits of Europe" tried to give this division the hue of "truth" and "justice," and to

deceive the world proclaimed that the League of Nations had given them the mandate to rule these territories on its behalf until the political systems of these territories were developed enough to warrant independence and admission to the League of Nations. No League of Nations had the right to transfer people of one region to the dominion of another people like cattle and sheep, nor any meeting of the League of Nations had taken place to consider this issue and nor any decision had been taken by it to confer these mandates on Britain and France.<sup>1</sup>

Anyhow, according to this resolution, Syria came under the rule of France. Soon thereafter, the French army numbering 100,000, under the command of General Henri Gouraud,<sup>2</sup> attacked the national Syrian government of King Faisal, and forced those very Arabs to surrender and subjugate themselves to the French rule whom the Europeans, particularly the British, had befriended just four years before and with whose help and sacrifices they had defeated the Turks and had conquered their lands, who were constantly being assured until the end of the past two years that they (the Allies) were fighting on their behalf just to liberate them from the yoke of the Turkish servitude and who were being regularly reassured and promised till the end of the War that they would have their own government in their own country.

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<sup>1</sup> It is to be noted that the Supreme Council of the Allies had already taken a decision about the mandates to be conferred on Britain and France on April 25, 1920, at the San Remo Conference without the approval of the League of Nations whose first meeting took place in Geneva on November 15, 1920. Hence, it is not that the League of Nations had requested Britain and France to take these "backward territories" under their protection and patronage, but it is that first Britain and France occupied these territories and, before the birth of the League of Nations, had got prepared a draft resolution of mandates in their favour and when, according to their plans, the League of Nations took birth, they got its signature on the resolution.

<sup>2</sup> Gouraud reportedly went to the tomb of Sultan Saladdin in Damascus, kicked it, and said: "Awake, Saladin. We have returned. My presence here consecrates victory of the Cross over the Crescent." [Translator; quoted from Wikipedia.]

On the other side, the people of Iraq, who had revolted soon after the announcement of British Mandate for Iraq, were crushed with excessive and barbaric force. The country where the "tyrannical" Turks had not stationed more than 14,000 troops ever, the "liberator" British Government had amassed more than 90,000 troops there. The country where the "tyrannical" Turks had not ever killed more than 200 Arabs per year, the "just and equitable" British in just one summer (of 1920) had killed 10,000 Arabs. And this the British Government did once they had obtained all the assistance and help from the Arabs in the war against the Turks on the declaration that "our armies do not come into your cities and lands as conquerors or enemies, but as liberators." After crushing the Iraqi struggle for independence, the British Government, to keep up the outward appearance of the sanctity of its pledges on the one hand, and on the other to pacify the British public which was unhappy over senseless annual expenditure of 100 million Pound being incurred in Iraq, thought it fit to establish a so-called national government which, as against the assurances and declaration of General Maude, would act not according to the wishes of the people of Iraq but according to the desires and directives of the British Government. For this purpose, it was announced in spring of 1921 that the people of Iraq had the right to elect their own king. However, no right of election was given to the people of Iraq; against their wishes Faisal bin Husain who, after losing the throne of Syria was desirous of having another throne, was nominated to be the king of Iraq on the condition that he would work under the influence and direction of the British government. The people of Iraq were not agreeable to the kingship of Faisal, but their voice was suppressed. The most influential leader of Iraq, Talib Pasha (who had rendered magnificent services to Britain during the War), was arrested and imprisoned in Sri Lanka, and to take the

steam out of the growing dissension of the Iraqi people, the enthronement of Faisal was announced on August 23, 1922, in such a haste that the "throne" was not ready and a temporary "throne" was made by placing a wooden plank over wine barrels.

After installing Faisal as the king of Iraq, Britain demanded the price for the throne of Iraq from Faisal; and what was that price? King Faisal was forced to sign a treaty according to which Iraq came fully under the indirect rule and influence of Britain. However, the people of Iraq never accepted this Treaty. To deceive the world and to obtain the consent of the Iraqi people a very strange method was invented. The treaty was presented in the Constituent Assembly in the middle of the night and its members were awakened from their sleep and forcibly brought in by the police to the Constituent Assembly, where they were forced to vote in favour of the Treaty and then it was announced that the Constituent Assembly had ratified the Treaty.

As far as the division of European portion of Turkey which had been decided upon in the secret treaty with Russia, it was scrapped due to the Bolshevik revolution in Russia, and as per another scheme, the Allies made Greece the recipient of some of the Turkish territories which were to be awarded to Russia. According to this plan, Greece, with the assistance and aid of the Allies, attacked eastern Thrace and Smyrna (Izmir) and occupied a large territory of the Turkish Empire. Simultaneously, the armed forces of the Allies occupied Constantinople, and took away from the Turks the Straits of Bosphorus and Dardanelles which they had earlier promised to Russia. This division was abrogated by the Treaty of Lausanne. However, this abrogation was not due to the spirit of fair-play and justice on the part of the Allies, but was actually due to the solid and firm armed resistance put up by the Turks which forced Greece and the Allies to vacate Turkey.

## **“LAWFUL” AIMS AND OBJECTIVES OF WAR**

The above is a record of the performance in the field of war of those nations who are the standard-bearers of the Western culture and civilization. Save a few learned philosophers and scholars of Europe, who anyhow had little influence over the society, the popular opinion of the entire peoples of England, France, Italy, Germany and Austria was in favour of the policies adopted and actions taken by their respective governments and it was because of their passionate and popular support that the statesmen and politicians of these countries were successful in prosecuting and winning the war. Therefore, we would be justified, if we deduce from the actions taken and the ways and means adopted by these countries during and after the War in the name of “truth” and “justice” as the real “truth” and “justice” in the sight of Western Civilization, and that the Western Civilization considers it lawful to take up arms for such “truths” and “justices.”

According to this standard, the following are to be considered those objectives for which prosecution of war becomes “lawful” under the Western Civilization:

1. To achieve monopoly over the wealth and natural resources of the world for establishment, expansion and extension of a nation’s trade and commerce.
2. To obliterate a rival power that is trying to overtake a nation in trade, commerce, and industry.
3. To bring under one’s influence those territories and countries that fall on a nation’s passage to its far-away colonies.
4. Division of countries and territories and enslaving weaker nations.
5. To obliterate a nation completely or at least weaken it in the event of an enmity with it for any reason whatsoever.

No further explanation is required about the above objectives, which are oftentimes called “the sacred truths

and rights." The conscience of every person can decide about their propriety or impropriety, and their reverence or irreverence.

It is possible that some persons may consider this kind of argument to be based on exaggeration. But we cannot comprehend what other thing can be called Western civilization than the collective conduct and practice of the Western nations. Religion could have adduced some credentials, but neither the European nations allow their religion to interfere in politics, nor their religion itself likes to take an active part in political affairs. Law could be given credence, but we have seen that it does not discuss about the lawful and unlawful objectives of war. After setting aside these two sources, from whom should we seek information about the creed of the Western Civilization; should we ask the moralists about it; should we ask those thinkers who preach peace only through their orations; should we ask a few of those authors and journalists from whose pens, per chance and occasionally, come out heart-warming thoughts and sayings about humanity and human brotherhood? We do not have any hesitation in asking anyone of the above mentioned persons, but just name one or two persons among them, not thousand or two thousand, whose thoughts or sayings have a hold on the masses or on the entire Western population or at least on its majority. If the West does not have any such unanimity of thought on the subject, then what source would be available for us to know about the moral creed of the West regarding war except their conduct and practice during and after the war?

## **RECOMMENDATIONS FOR ESTABLISHMENT OF PEACE AND DISARMAMENT**

To prove the good intentions of Europe with regard to the issue of war, those efforts would certainly be referred to that have been taken in the last few years in stopping wars, establishment of permanent peace, imposing restrictions on

the use of arms and armament, and annihilating the powers of war-mongers or at least weakening them as far as possible. But, disregarding the deceitful façade of these efforts, if we try to probe their real intentions, we realize that there is no desire of stopping war but instead there is a strong desire to escalate it further.

The suggestion for limitation of armaments was informally presented by Russia in 1898. In August 1898, a circular<sup>1</sup> was sent to all the major States of world wherein expressing the necessity of holding an international conference it was stated:

*"The maintenance of general peace, and a possible reduction of the excessive armaments which weigh upon all nations, present themselves in the existing condition of the whole world, as the ideal towards which the endeavours of all Governments should be directed.*

*"The humanitarian and magnanimous ideas of His Majesty the Emperor, my August Master, have been won over to this view. In the conviction that this lofty aim is in conformity with the most essential interests and the legitimate views of all Powers, the Imperial Government thinks that the present moment would be very favourable for seeking, by means of international discussion, the most effectual means of insuring to all peoples the benefits of a real and durable peace, and, above all, of putting an end to the progressive development of the present armaments.*

*"In the course of the last twenty years the longings for a general appeasement have become especially pronounced in the consciences of civilized nations. The preservation of peace has been put forward as the object of international policy; in its name great States have concluded between themselves powerful alliances; it is the better to guarantee peace that they have developed, in proportions hitherto*

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<sup>1</sup> This is known as a Rescript. On August 24, 1898, at the regular weekly reception held at St. Petersburg for the diplomatic corps, the Russian Foreign Minister, Count Mouravieff, handed to his guests this Rescript from the Czar of Russia, Nicholas II. [Translator]

*unprecedented, their military forces, and still continue to increase them without shrinking from any sacrifice.*

*"All these efforts nevertheless have not yet been able to bring about the beneficent results of the desired pacification. The financial charges following an upward march strike at the public prosperity at its very source.*

*"The intellectual and physical strength of the nations, labour and capital, are for the major part diverted from their natural application, and unproductively consumed. Hundreds of millions are devoted to acquiring terrible engines of destruction, which, though today regarded as the last word of science, are destined tomorrow to lose all value in consequence of some fresh discovery in the same field.*

*"National culture, economic progress, and the production of wealth are either paralyzed or checked in their development. Moreover, in proportion as the armaments of each Power increase, so do they less and less fulfil the object which the Governments have set before themselves.*

*"The economic crises, due in great part to the system of armaments a L'outrance, and the continual danger which lies in this massing of war material, are transforming the armed peace of our days into a crushing burden, which the peoples have more and more difficulty in bearing. It appears evident, then, that if this state of things were prolonged, it would inevitably lead to the very cataclysm which it is desired to avert, and the horrors of which make every thinking man shudder in advance.*

*"To put an end to these incessant armaments and to seek the means of warding off the calamities which are threatening the whole world – such is the supreme duty which is today imposed on all States.*

*"Filled with this idea, His Majesty has been pleased to order me to propose to all the Governments whose representatives are accredited to the Imperial Court, the meeting of a conference which would have to occupy itself with this grave problem.*

*"This conference should be, by the help of God, a happy presage for the century which is about to open. It would converge in one powerful focus the efforts of all States*



*which are sincerely seeking to make the great idea of universal peace triumph over the elements of trouble and discord.*

*"It would, at the same time, confirm their agreement by the solemn establishment of the principles of justice and right, upon which repose the security of States and the welfare of peoples."*

It is ironical that the aforesaid ideas were proposed by an Empire which was in the forefront in the production of armaments and the one most ambitious to go to war. When these ideas were presented before the world, they were welcomed by everyone. Russian government was congratulated and almost all the countries agreed to participate in this international conference. Hence, in the very next year, in 1899, the first Hague Conference was held whose first subject of discussion was curtailment of ever-increasing progression in the military and naval forces. But when the debates in the Conference commenced, it became clear that no State was interested in reduction of armaments. Mr. Fredrick W. Holls, American Secretary of State, who represented America in the Conference, understood this trend at the beginning of the Conference itself and very candidly said that every such person who because of his ignorance had great expectations from the proposals of reduction of armaments, or had hoped that a higher world court of justice would be established, an international police force would be created and that its decisions would be executed in the world, would eventually be disappointed.

Hence, this was exactly what happened at the Conference. The Conference desisted from taking up the subject of disarmament or reduction of armament. When it was insisted upon, objections were raised by almost all the participants of the Conference. Eventually, the matter was finalized by just passing a brief resolution which was as follows:

*"The Committee considers that a limitation of the military charges which now weigh upon the world is greatly to be desired in the interests of the material and moral welfare of the humanity."*

The real worth of the "opinion" and "the great desirability" expressed in the aforesaid resolution can be evaluated by the fact that not a single government of the world considered it worth following and a tremendous increase was noticed, day after day, in military preparedness and augmentation of military power both in quality and quantity. Even the subjects concerning limitation on the use of the existing stocks of armaments and development of more sophisticated weaponry, which formed subjects 2 to 4 on the Agenda of the Conference, were summarily rejected by the Military Sub-Committee. When the Second Peace Conference was held in 1907 at The Hague, the subject of disarmament was not at all listed in the agenda of the Conference and it was made clear that such issues should not be taken up for deliberations which concerned limitation of army and naval armaments. However, it was considered expedient to reaffirm the resolution passed in the first Peace Conference at The Hague of 1899 in this regard and to just add a sentence urging the governments to study seriously this question; the resolution read as follows:

*"The Second Conference of Peace reaffirms the resolution adopted by the Conference of 1899 regarding the limitation of military charges, and considers that these military burdens have considerably increased in almost all the countries since the last date. The Conference declares that it is especially to be desired that the governments should undertake again the serious study of this question."*

The purpose of this resolution was just that the governments "should undertake again the serious study" of the question of disarmament. Hence, the governments did "undertake a serious study of this question," and reached a decision to increase their war preparedness even more.

Before the commencement of the First World War, there was a discussion between the European scholars and thinkers about the reasonable ways and means of forcibly stopping the war and how far the International Law permits it. However, even when these discussions were in progress, the war commenced and the international community got involved in another more important issue i.e. the issue of survival in the Great War.

Although, before, during and after the Great War, some of the academics, jurists, socialists and utopians had discussed and debated about disarmament and limitations of arms sitting in their safe havens, and were busy breaking their heads about finding ways and means of preventing war by force, practically their thoughts and ideas were being rejected every minute and every second by the actions and practice of the world; people had no time even to listen to these thoughts let alone ponder over them. However, effects of these thoughts were felt to a certain extent and the American Government decided to take up this cause officially. During the course of the World War I and before the US Government's entry into the War in April 1917, the American President Mr. Woodrow Wilson delivered an address to the American Senate on January 22, 1917, on the subject of "Peace without Victory," in which, among other things, he outlined his vision and theories, and exhorted adoption of the principles of disarmament, limitations of armaments and use of arms. He said among other things:

*"...There can be no sense of safety and equality among the nations if great preponderating armaments are henceforth to continue here and there to be built up and maintained. The statesmen of the world must plan for peace and nations must adjust and accommodate their policy to it as they have planned for war and made ready for pitiless contest and rivalry. The question of armaments, whether on land or sea, is the most immediately and intensely practical question*

*connected with the future fortunes of nations and of mankind.*

*"...I am proposing government by the consent of the governed; ...and that moderation of armaments which makes of armies and navies a power for order merely, not an instrument of aggression or of selfish violence."*

After 1907, this was the second occasion when the issue pertaining to disarmament was formally and officially taken up. But this call was even more absurd and meaningless, because the Government which had advocated so fervently for establishment of world peace and disarmament/reduction of armaments, got itself involved in the World War I and thus nullified its own principles by its actions.

## LEAGUE OF NATIONS

After the First World War, the victorious Western nations, on the suggestion of the American President Woodrow Wilson established an organization which was named as the League of Nations. The foremost purpose or objective of this organization was to abolish war and causes of war. Hence for the abolition of causes of war it established an International Court of Justice so that it could resolve disputes arising between the States, and to stop the war itself it passed a Convention, the objective of which was that the States settle their disputes peacefully and amicably, and if any State was to use military force to achieve its objectives, all the other States should jointly take action against it. Article 16 of the said Convention reads as follows:

*"Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall ipso facto be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the*

*covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not."*

In the next sentence, the Council of the League has been given the authority to demand from the member States whatever military, naval and air force it required to take action against the erring State, and declared it the duty of all the member States to hand over all their economic and military power to the League in order to use them against the erring State.

Outwardly, this Covenant of the League of Nation seemed to be a very effective and very efficient weapon to prevent war. But, in fact, the League of Nations proved to be more dangerous and was just a mere civilized and innocent-looking grouping than those groupings which had caused the Great War of 1914. Since after seeing the terrible and catastrophic results of such groupings during the Course of the War the peoples of European countries were overwhelmingly disgusted over such alliances and perceived them to be the cause for all their afflictions and calamities, the Western countries were forced to abandon the old system of forming alliances. But without such alliances it was difficult for them to achieve their political objectives, because individually no country had such influence and power that it could achieve its objectives by intimidating the entire world. And for achieving common and combined objectives, it was absolutely necessary for the larger countries to combine their powers and resources in order to retain their hold on the world. Therefore, they gave a different name to the same old alliances, in which instead of open defensive and aggressive alliances, they, under the guise of morality, peace and justice, contrived new alliances filled with the same old spirit of combined criminal aggression. As far as suppressing and subjugating smaller and weaker countries is concerned, this Covenant

can be a very convenient tool. For example, should there be a dispute between Greece and Bulgaria, or between Poland and Lithuania, just a warning from the more powerful members of the League would be enough to settle it. Not only this would stop small wars, but the greatest of the benefits would be that the great powers can impose their hegemony over the world and playing God they can successfully take up the activities of alteration and abrogation of the world system, increasing and decreasing the military powers of the nations, favouring their favourite powers and intimidating the ones who are disliked by them.

However, if one of the great powers were to act against the Covenant of the League, the League would not be in a position to verbally call for an explanation let alone have the courage to take action against it.<sup>1</sup> Suppose, today Britain were to act against the Covenant of the League endangering the peace of the world, and the Council of the League were to convene and pass a resolution warning of strict action if the offender (i.e. Britain) were not to desist from committing the crime, and suppose the offender who is the greatest naval power in the world were not to desist and were to continue with her activities, in such an event if the League were to request its member-States to sever commercial, financial, diplomatic and all other relations with it and use their combined military forces to compel her to obey the Covenant of the League, how many States of the world, who are members of the League, would agree to follow the orders of the League and thus sacrifice their innumerable economic, political, commercial and financial interests which they have with such a powerful State like Britain. Would the relationships of 1/5<sup>th</sup> of the world's

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<sup>1</sup> This weakness of the League came to fore a few years later of writing these sentences when Italy attacked Ethiopia and Japan invaded China, and Germany began to invade and occupy its neighbouring states and the League could do nothing to stop them; this eventually caused the demise of the League. [Remember, this book was written in 1920s.]

population get severed at a stroke with the remaining 4/5<sup>th</sup>? Would the other powerful States of Europe and America be ready to give up their individual special expediciencies and bear the tremendous losses of war against a powerful country just because the League of Nations wants them to do so? Whoever has a little inkling of practical politics will never answer these questions in affirmative, and when the answer is not in affirmative then it should be agreed that the League of Nations will be unable to keep the bigger and powerful countries under its control, when they become a real threat to the world peace, although the real threat to the world peace is from the avarice and greed of these powerful States.

This is not just an assumption; this has been proved correct during the last eight years. The day when this League came into existence, it did not have the courage even for once to question any of the powerful countries for their oppressive acts. In Damascus (Syria), France committed open genocide and the League remained a silent spectator, although the Syrian territory was supposed to have been given to France under the League's mandate. Italy wanted to meddle with the issue of Yugoslavia, but just a threat from Italy was enough to silence the League. Britain shed torrents of blood in Iraq which was mandated to it by the League; but the League never even asked her why she was treating the Iraqi people so brutally. Moreover, all the disputes between powerful and weaker nations presented to the League for finding solutions, ended in decisions favouring only the powerful ignoring the truth and the rights of the weaker nations. The manner in which the territory of Mosul was separated from Turkey and annexed to Iraq just to satisfy the avarice of Britain proves that the League of Nations is an alliance of the powerful countries of the world, which has been established by them just to achieve their objectives. The force which was used and being used by this alliance in the guise of League of

Nations against the weaker nations has already created resentment, and to safeguard their rights and interests, and in fact their own existence, the weaker nations want to form another alliance, so that they could confront and resist the powerful States with their combined strength whenever they try to oppress them. If this powerful desire were to practically fructify, again there would be two alliances confronting each other similar to those that had caused the World War I in the first instance, and perhaps there would be another Great War in the world which could be even more disastrous.

### **FRESH PROPOSALS FOR DISARMAMENT**

During the last seven years (remember this book was written in 1920s), different proposals regarding disarmament, limitation of armaments and prohibition of war are under intense discussion in Europe and America, and many optimists consider this as a proof of good and virtuous intentions of the Western nations. But, as a matter of fact there is not even an iota of truth and sincerity in all these talks and discussions. Since the peoples of the Western countries have become tired of incessant fighting and since they desperately require peace and tranquility in their social and, particularly, their industrial life, at least for the sake of amusement they like to hear about such proposals, out of which if not actual peace, some distant hope for peace could be kept alive. And, as far as the execution of these proposals are concerned, nothing is expected to come out of them, because during the past seven to eight years, the progress that the Western countries have made in the manufacture and production of armaments has surpassed all such productions in the past; it has even surpassed the production immediately before the World War I in 1914 when the entire Europe was frantically engaged in the preparations for war.



After the World War I, for the first time, in 1921, this issue was taken by the United States of America, and on its initiative an international conference was held in November 1921 at Washington. The ostensible objective of the Conference was disarmament or limitation of armaments, but actually America, France, Japan and Italy wanted to curtail the massive naval power of Great Britain which was still the biggest in the world, because the survival of these countries depended on maritime trade and commerce, and as long as the Great Britain ruled the seas, the other countries feared for the safety and continuity of their maritime trade. On the other side, the Great Britain always realized that her survival as an Empire was entirely dependent on the supremacy of her naval power, and therefore, it was her desire that no other country should rival and excel her in this field. These internal concerns were the real issues that were discussed in the conference rather than disarmament. Every participating country wanted to impose restrictions on the other countries, but was unwilling to accept similar restrictions on her arguing that her situation and circumstances were different. The result was that the Conference could not do much except it brokered a few treaties which fixed the ratio of naval strength between the five bigger States. Soon after the Conference, the US which had come forward as the standard-bearer of limitation of armaments announced her plans to manufacture five dreadnought battleships and equip Panama Canal with latest armaments.

The Conference also took up the issue of submarines for consideration. The real threat from submarines was felt by the Great Britain because her whole economic life was dependent upon her exports to foreign countries and it owned majority of both merchant and war ships. The Great Britain had not forgotten the way in which the submarines (U-boats) of Germany had destroyed her maritime trade during the course of World War I, and therefore, it used all

her power and influence to obtain a complete ban on the use and construction of submarines. On the other hand, France was particularly against such a ban arguing that her fleet of battleships was very small compared to Great Britain and other countries, and that her only source of defence was her fleet of submarines. Members of the French delegation made it very clear that they considered submarines not offensive weapons but a source of defence and only countries with smaller fleets of battleships were constrained to use them for their defence. Finally, the US suggested a *via media* that use of submarines be banned for destruction of enemy's trade during war, which was accepted by both the groups.

Another convention was also passed concerning use of poisonous gases. In the beginning it was in the first Hague Conference of 1899 that use of poisonous and asphyxiating gases were banned, which was strongly opposed by Britain. During the First World War, Germany and her adversaries had very liberally used these gases against each other and whatever legal restrictions had been in place were shattered by the joint action of all the States. Thereafter, this Convention was again renewed at this Conference, but it was not willingly accepted by any of the participating States. While affixing his signature, the French representative M. Albert Sarraut wrote a note saying that banning use of poisonous gases seemed to be unenforceable. Because of this unwillingness, this Treaty has not yet been ratified and has remained a meaningless document for all practical purposes.

After the Washington Conference, on the initiative of British Prime Minister Mr. Lloyd George a pan-European conference was held at Genoa. The purpose of the Conference was to arrive at an agreement that the European countries would not attack each other and that they would jointly rebuild the war-devastated countries. However, the US refused to participate in the Conference; France at the

beginning itself made the announcement she would not be responsible for the decisions taken in the Conference; Turkey was not invited; Russia was invited so that she could be pressurized to compensate for the damages caused to the European assets and properties in Russia during the Russian revolution. Consequently the Conference ended in failure and there was no let up in the war preparations.

After the Genoa Conference, another conference was held at the Hague. But it also resulted in failure. Thereafter, another international conference was held at London, but such strong differences arose in the conference between Britain and France, that a very angry and annoyed French Premier, M. Poincare, did not even stop for the photo session and straight away departed for Paris.

In September 1925, the League of Nations took up the issue of limitation of armaments and abolition of war and on its request the Council appointed a Preparatory Commission for a Disarmament Conference in order to deliberate and to suggest the principles on the basis of which such a conference could be called for. The said Commission could not complete the task even after one year. On September 24, 1926, the General Assembly recommended the Council to instruct the Commission to complete its work by 1927 so that an international conference could be convened before its eighth General Assembly. The Commission has not completed its task even in this extended period and just meetings after meetings are being held. Since no tangible results have come out of this Commission, it would be premature to opine on its outcome. But indications are that it will also result in failure. If the Western Powers had really been desirous of implementing the policy of disarmament or limitation of armaments, they would have whole-heartedly considered the Russian proposals in this behalf, because practical steps could have been taken only in the light of those proposals. But none of the Great Powers was ready to

accept them. The British representative had very clearly said that complete disarmament would endanger the nations to pillage, plunder and revolutions.

This showed their hypocrisy. From their talks and speeches, one could very easily be deceived to think that the Western countries were really fed up with war and bloodshed, that they really valued peace and tranquility, and that they were serious about giving up playing the games of destruction of human beings and lending all their resources and energies towards the development of their respective nations and countries. But the fact was that very serious mutual resentment, hatred and feelings of hostility and rivalry between these nations were silently fostering and rearing to erupt. The number of military personnel was being increased. More and more advanced weapons were being manufactured, and every nation was trying to be militarily stronger than the other and crush the opposing nations in the war that everyone expected to ensue and thus prove and stamp its supremacy. Looking at this hostility and the armed race amongst the Western countries, no one would have believed that the Western Powers were really inclined towards peace and that they were sincerely opposed to war. In his Memorandum of April 1919 addressed to the Paris Peace Conference, the British Prime Minister, Mr. Lloyd George had written that:

*"The first condition of success for the League of Nations is, therefore, a firm understanding between the British Empire and the United States of America and France and Italy that there will be no competitive building up of fleets or armies between them. Unless this is arrived at before the Covenant is signed, the League of Nations will be a sham and a mockery."*

As per the above observation of Mr. Lloyd George, because of lack of good intentions on the part of the Great Powers, reluctance to disarm and honour the covenants of the League of Nations that they had signed, the League of Nations became "a sham and a mockery." The competition

contrary it has increased to a very dangerous level. Like the ancient savages, these modern-age savages have neither a lofty aim and aspiration, nor any ethical or moral objectives for prosecuting war so as to allow them to claim any sort of superiority over them. The same craving for acquisition of splendour and wealth, and the same pursuit for abundance of affluence and extension of power and authority which could excite a savage and uncivilized tribe for war four thousand years ago, could galvanize the modern-day "civilized" nations too for bloodshed and large-scale slaughter. With the progression of civilization, there has been no progression in the ethical and moral values; the only progression that has taken place is that now thousand-fold more powerful resources and means are used than in the ancient times for the achievement of these contemptible and despicable objectives.<sup>1</sup>

It is evident that when the objective is bereft of nobility and righteousness, the means of achieving that objective, however good and pure they might be, cannot bestow on the action any degree of sanctity and rectitude. However, for the sake of completing the argument we should see by what kind of rules and regulations the Western civilization has regulated its acts of war, and what is their intrinsic power and practical aspect vis-a-vis the Islamic rules and regulations. The people of the West claim that they have changed the old barbaric ways of prosecuting war and instead have adopted very civilized means, and the war which was previously nothing but a game of ferocious animals, has been changed into a civilized struggle and noble show of strength. This claim is made in such a high pitch and with such a display of splendour that the uninformed world readily believes it.

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<sup>1</sup> With the invention of atom bomb during the World War II and even more powerful weapons and delivery systems after the World War II, this proportion has increased to a mind-blowing level.

for building up of fleets of warships and armies was so tremendous that it was never witnessed even in 1914. The unprecedented increase of armed forces, development and production of more destructive weaponry, construction and deployment of airplanes and giant warships, and production of lethal gases by the Western countries had taken the entire humanity to the verge of such destruction that the entire past human history had never witnessed before. With these glaring facts, none can be deceived by the mere show of the desire for peace and holding of sham peace conferences.

[A chapter "**THE SECOND WORLD WAR**" has been written by the Translator on a pattern almost similar to the one adopted by the venerable Author of the book in writing the chapter on the First World War. To make a distinction from the original writings of the Author, it is included in the book as Appendix.]

## **PRACTICAL ASPECT OF WAR**

Whatever has been written so far pertains to the moral aspect of the Western perception of war. In this aspect you have seen that the aims and objectives of the Western world, in spite of its advancement in civilization, has not progressed an inch from the aims and objectives of those uncivilized and barbaric nations which lived centuries ago. No doubt, with regard to the means of war the progress of the Western nations has reached sky-high; who will not be dazzled with the highest degree of training and discipline of their armed forces; with the beautiful and attractive military uniforms of their soldiers; with the extraordinary skills of their generals; and with the precision, effectiveness and destructive nature of their advanced weaponry. But, the soul or the spirit which is working in this concept of war is the very same soul of the savage era, whose barbarism and ferociousness has not diminished with the increase in the resources and advancement in the weaponry; on the

But, we would like to test it on the touchstone of analysis to see how far this claim is correct.

### 1. The Nature of International Law

The law that governs the mutual dealings and relations during war and peace between Western nations and countries, in technical term, is known as International Law. Legal scholars and experts have defined it variously, but the most comprehensive definition is as follows:

*"A body of rules established by custom or treaty and recognized by nations as binding in their relations with one another."*

This custom has not been formulated by any Supreme Power to compel the nations to follow it and which does not give them the authority to make any alterations in it. On the contrary, it has been formulated by the nations themselves for their own convenience, and as the formulators of the custom they retain every right to change it as per their liking or abandon it and formulate some other custom or law. Hence, it is more correct to say that the Western nations do not follow the International Law; rather the International Law follows them. Whichever method they adopt for their own convenience and advantage becomes the law, and whichever they abandon remains no more a law. The principles on which the Western nations concur today are the present-day international law; but it is not necessary that it would remain the law tomorrow also. Tomorrow if they were to change these principles and formulate some other principles, the rules and regulations based on the old principles would be cancelled and the new principles would become the International Law. Therefore, it is the opinion of some of the distinguished Western scholars that it is wrong to interpret the word "custom" with "law." John Austin, in his book *"The Province of Jurisprudence Determined,"* writes:

*"Speaking with greater precision, international law, or the law obtaining between nations, regards the conduct of sovereigns considered as related to one another. And hence it inevitably follows that the law obtaining between nations is not positive law... As I have already intimated, the law obtaining between nations is law (improperly so called) set by general opinion."*<sup>1</sup>

Lord Salisbury observes:

*"It can be enforced by no tribunal, and therefore to apply to it the phrase "law" is to some extent misleading."*<sup>2</sup>

Lord Birkenhead says in his book *"International Law"*:

*"In reality the sources of its strength are three:*

1. a regard which in a moral community often flickers but seldom entirely dies for national reputation as affected by international public opinion;
2. an unwillingness to incur the risk of war for any but a paramount national interest;
3. the realisation by each nation that the convenience of settled rules is cheaply purchased, in the majority of cases, by the habit of individual compliance."<sup>3</sup>

Lord Birkenhead writes in his aforesaid book:

*"Since States are its units, international law can only exist where a number of communities acknowledge a mutual equality before the law and make common submission to its authority."*<sup>4</sup>

From the above statements, it is evident that international law is just a usage of a few nations which has neither a legal value nor has a stable foundation.

<sup>1</sup> Austin, John, *"The Province of Jurisprudence Determined,"* p. 177, (London, 1861). [Translator]

<sup>2</sup> Reported in the *Times* of July 26, 1897; quoted by Birkenhead, Fredrick Edwin Smith in his book *International Law*, p. 8, (London, 1903). [Translator]

<sup>3</sup> Birkenhead, Fredrick Edwin Smith; *International Law*, p. 16, (London, 1903) [Translator]

<sup>4</sup> *Ibid*, p. 1-2. [Translator]



## 2. Constituents (Sources) of the International Law

International law is composed of many sources or constituents, and these constituents have different degrees of compositional value and merit. Some constituents are those which have just moral influence in the formulation of law, and some are those that exert material influence, and quite often the material influence dominates the moral influence. To understand fully well the ensuing discussions, it is necessary to explain these constituents or sources of International Law.

(i) *The First Source: The Works of Eminent Publicists [Experts in International Law]*: The opinions of the expert jurists of International Law right from Grotius to present-day scholars can be found in the law books; they have contributed immensely in the formulation of the International Law. However, the worth of their opinions can be ascertained from the fact that they are referred to while trying to solve more complicated international disputes, but decisions do not rest on them. T.J. Lawrence, in his book *"The Principles of International Law,"* writes:

*"From the time of Gentilis and Grotius down to the present day there has been a long series of able writers, whose works have influenced the practice of states and whose published opinions are appealed to in international controversies. They occupy a position analogous to that of the great institutional writers on Common Law. That is to say, their views are quoted and treated with respect in disputed cases, but are not necessarily decisive."*<sup>1</sup>

Lord Birkenhead writes:

*"It is no doubt true that these writers have been repeatedly cited in English courts, and that their opinions have often been judicially considered: the explanation is to be found in the presumption, inevitably drawn by English lawyers, that such authorities may be relied upon to supply a trustworthy statement of existing practice. They are cited much as*

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<sup>1</sup> Lawrence, Thomas Joseph, *The Principles of International Law*, p. 98-99, Sixth Edition (1910). [Translator]

*Blackstone and Coke are cited, not to make legal rules, but to prove their existence, and to construe them in a doubtful case."*<sup>1</sup>

US Supreme Court Chief Justice, Gray J., while delivering judgement in the *Paquete Habana*, the *Lola* (1899) case, observed:

*"International Law is part of our law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction as often as questions of right depending upon it are duly presented for their determination. For this purpose, where there is no treaty and no controlling executive or legislative act or judicial decision, resort must be had to the customs and usages of civilized nations, and, as evidence of these, to the works of jurists and commentators, not for the speculations of their authors concerning what the law ought to be, but for trustworthy evidence of what the law really is."*<sup>2</sup>

Lord Chief Justice of England, Cockburn, C.J., in one of his judgments, says:

*"For writers on International Law, however valuable their labours may be in elucidating and ascertaining the principles and rules of law, cannot make the law. To be binding the law must have received the assent of the nations who are to be bound by it."*<sup>3</sup>

From the aforesaid authentic observations, it is evident that the great works of the experts in International Law have no legal authority or decisive power.

#### **(ii) The Second Source: The International Treaties:**

The treaties are broadly classified into two categories: (1) Declarative Treaties, and (2) Non-Declarative Treaties.

Declarative Treaties are those in which a particular principle is established by all or majority of the States of

<sup>1</sup> Birkenhead, Fredrick Edwin Smith; *International Law*, p. 21-22, (London, 1903). [Translator]

<sup>2</sup> Gray, J., in the *Paquete Habana*, (1899) 175 U.S. 677. [Translator]

<sup>3</sup> Birkenhead, Fredrick Edwin Smith; *International Law*, p. 14-15, (London, 1903). [Translator]

the world by mutual consent; e.g. the Congress of Vienna 1815, the Declaration of Paris 1856, the Geneva Conventions of 1864 and 1906, the Declaration of London of 1871 and 1909, the Hague Peace Conferences of 1899 and 1907, the Treaty of Washington of 1871, the Berlin Congress of 1886, the Brussels Conference of 1890, and the Treaties of Washington of 1922. Such treaties are binding upon those who sign them. But every State retains the right to come out of the treaties, whenever it wishes, after informing the other parties to the treaties. By such treaties no International Law comes into existence. According to Lawrence, these types of treaties cannot be considered as legislative acts.

As regards the other kind of treaties [the Non-Declarative Treaties], they include those treaties which have not been concluded between major groups of the international community, but had been concluded by two or more nations for the determination of their mutual affairs. Lawrence says:

*"They are signed by two or three States only, and are meant to establish in their mutual intercourse some principle of action not in general use. Thus they are evidence of what International Law is not, rather than what it is..."*<sup>1</sup>

Both the aforesaid kinds of treaties generally do not carry any legislative power. However, as stated above, there are some treaties which formulate principles of law like the Hague Convention which stipulates the rights and duties of belligerents and non-belligerents. But the existence of these principles of law depends on the concordant behaviour of all the States. If one great power or a few States were to break the treaties, the remaining States would also come out of them, and the laws based on such treaties would become extinct.

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<sup>1</sup> Lawrence, Thomas Joseph, *The Principles of International Law*, p. 106, Sixth Edition (1910). [Translator]

**(iii) *The Third Source: The Decisions of Prize Courts, International Conferences, and Arbitral Tribunals:*** The decisions made by these institutions do not formulate laws; rather the existing International Laws are applied to the situations on hand. Therefore, at the most, they can be considered as elucidation or interpretation of the International Law. There is no doubt, however, that some eminent judges in the past have also established some general principles of law while delivering judgments on some issues that they are counted amongst the formulators of International Law; for example, U.S. Supreme Court Chief Justice, Joseph Story; Justice Lord Stowell of England; and Justice M. Portalis of France. But, ultimately, promulgation of even their formulated principles entirely depends on the consent of the States.

**(iv) *The Fourth Source: The Instructions Issued by States to their Armed Forces:*** In the beginning these instructions had been issued by some State, whereafter other States too adopted them finding them feasible, and with passage of time they became part of the International Law. Although, a law is certainly formed under these instructions, but it is not established on the basis of international obligations; rather it is based on the acceptance and likes and dislikes of individual States. Whenever desired, every State has the right to change and replace it with any other law.

### **3. Instability of the International Law**

The above are the constituents of the International Law. Neither of these constituents individually has the legislative power which could bind the nations of the world. It is quite apparent that when the columns are weak, the structure constructed on them would also be infirm and shaky. If we analyze in detail the constituents used in the construction of this structure of law, we find many defects in them. In this law everything rests on the accord and

consent of the States. The rule which is accepted unanimously by all or majority of the States becomes the International Law, and the one which they reject, or give up after following it for some time, does not remain a law at all. Hence, this law has just become a tool for achieving political goals and ambitions; its formulation and promulgation, its usage and carrying out any changes and amendments in it all are vested with those wily politicians and statesmen who are habituated to use every lawful and unlawful means to achieve their objectives. Further, there is so much room for interpretation, so much flexibility for difference of opinion and so much latitude for disregarding the obligations under this law, that every State can break it whenever it wants to, while retaining its status as law. In other words, in the law itself provision has also been made for its infraction. It is a fact that this weakest of the structures is in existence just because the States want themselves to retain it for their own selfish needs. Otherwise, today if the States start to use its deficiencies and latitudes for accomplishment of their own varied political interests and goals, this "sky-high structure" of international law would come down in seconds like a water bubble.

#### **4. International Law Pertaining to War**

The International Law pertaining to war, which is called Law of War is even weaker than its Civil Law. The Western Law of War, in reality, is not based on any ethical or moral foundation; rather it is based on the foundation that the States are themselves desirous of saving their armies and population from the barbaric actions during and after the war. Keeping this objective in view, they had mutually reached a decision that whenever they go to war they would follow certain rules and regulations. For example in the Hague Conference of 1907, they formulated and signed a treaty in which a lot of concessions and

comforts were agreed to be given to the prisoners of war. The States agreed to these concessions not because they considered it their moral obligation to treat in a humane manner those who wage war against them; rather the real reason was that every State wanted its own soldiers not to become target of inhuman treatment when they become prisoners of war of the enemy State. Even today if a State were to break this treaty and treat its prisoners of war like they were treated by the sixth century States of Rome and Persia, perhaps the most civilized States of this age would have no qualms in treating their own prisoners of war in the most barbarous way ignoring all the treaties signed by them.<sup>1</sup> This is exactly the case with regard to the rules formulated banning aerial bombardment, use of expanding (dumdum) bullets, use of poisonous gases, assuring safety of battle-field hospitals and their staff, and other war-related matters. The motive behind all these treaties is that every State wants to protect its own armies and population from destruction; otherwise in case of breach of these treaties by the opposite party, no State would be ready to keep on complying with them.

### **5. The Real Import of Laws of War**

Hence, these rules and regulations which are called the "civilized" Laws of War are really not the laws but are treaties. They can be implemented only when the parties to the treaties give their consent, and each State remains bounded by them as long as the other States too observe them. As soon as a powerful State or a group of States contravenes them, all the civilized States of the world get themselves relieved of their obligations. Such rules and

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<sup>1</sup> It actually happened during the course of the Second World War. In the reckless fury of revenge, whatever one belligerent did with the prisoners of war of the other belligerent, similar treatment was meted out to the prisoners of war of the other, till all the civilized rules and regulations of war which had been agreed upon were torn asunder.

regulations cannot be called "laws." The definition of law is that every person individually should be obligated to follow it, irrespective of whether the others follow it or not. The law which makes a demand for its observance by a person only when the other person observes it, is indeed not a law but an agreement or a contract, and an agreement cannot be worthy of praise, however, good its terms and conditions might be, because its terms and conditions are based on the selfish interests of the parties to the agreement and are not based on any sense of moral obligations. We are not alone in this observation; even the great statesmen and jurists of Europe observe in the similar vein. Sir Thomas Barclay writes at the end of the article on "Laws of War" in Encyclopedia Britannica:

*"Too much confidence must not be placed in regulations concerning the conduct of war. Military necessity, the heat of action, the violence of the feelings which come into play will always at times defeat the most skillfully-combined rules diplomacy can devise. Still, such rules are a sign of conditions of public opinion which serve as a restraint upon the commission of barbarities among civilized peoples. The European operations in China consequent on the 'Boxer' rising showed how distance from European criticism tends to loosen that restraint."*<sup>1</sup>

Before the commencement of the First World War, the Great General Staff of the German Army issued a booklet titled *"Kriegsbrauch im Landkriege"* ("The Usages of War on Land"), in the introductory chapter of which it is very clearly written:

*"The fact that such limitations of the unrestricted and reckless application of all the available means for the conduct of war, and thereby the humanization of the customary methods of pursuing war really exist, and are actually observed by the armies of all civilized States, has in the course of the nineteenth century often led to attempts to develop, to extend, and thus to make universally binding*

<sup>1</sup> Encyclopedia Britannica, Vol. 28, p. 316, 11th edition, (1910-1911).

*these pre-existing usages of war; to elevate them to the level of laws binding nations and armies, in other words to create a codex belli; a law of war. All these attempts have hitherto, with some few exceptions to be mentioned later, completely failed. If, therefore, in the following work the expression 'the law of war' is used, it must be understood that by it is meant not a lex scripta introduced by international agreements; but only a reciprocity of mutual agreement; a limitation of arbitrary behaviour, which, custom and conventionality, human friendliness and a calculating egotism have erected, but for the observance of which there exists no express sanction, but only 'the fear of reprisals' decides."*<sup>1</sup>

This "fear of reprisals" is indeed the backbone of the European Laws of War. During the course of previous World Wars, when the frenzy of revenge of the States removed this fear of reprisals, and some of the States ignoring the dangers of retaliation began to contravene the Hague and Geneva Conventions, the world, to its amazement, saw that all those States which previously claimed to abide and respect these "civilized Laws of War," instantly freeing themselves from the obligations of these laws. Every misdeed committed by an adversary became a just and virtuous act for its opponent. Every transgression which a State committed became permissible for the other State. European States jointly torn asunder the very Laws of War which they had formulated in The Hague and Geneva Conventions. Had these laws been formulated on any lofty moral and ethical foundations and principles, would they have been ripped apart in this way?

## 6. The More Powerful Law of War Exigencies

After the aforesaid infirmities, whatever power is leftover in the Laws of War is further weakened by the

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<sup>1</sup> Morgan, J. H., *The War Book of the German General Staff* (a translation of the booklet *Kriegsbrauch im Landkriege*), p. 70-71, (New York, 1915).



more powerful law of war exigencies. The immediate needs of the battle field always clash with these Laws of War, and the Laws of War formulated in the peace conventions and written in the books always get defeated whenever such a clash takes place. Prof. Nippold writes:

*"It would, therefore, be well to differentiate between the Law of War and International Law. Not only for the reason that war is only in part under legal regulation but also because the norms of the law of warfare are to a far greater degree exposed to contradictions than the norms of International Law, since they can easily come into collision with professed or supposed war necessities. A systematic placing together of the Law of War and normal International Law can, therefore, only have the result that the discredit which attaches to the law of warfare will also be carried over to normal International Law."*<sup>1</sup>

Prof. Nippold further stresses this point thus:

*"In the main the conduct of the war will at all times and places be dependent upon the necessities of the war, and nothing else. Legal regulation within such a state of self-help can therefore only be applied with moderation and only in very definite relations. If this limitation is not regarded, the legal norms are likely to be violated. The present war [i.e. the First World War] has doubtless produced distinct evidence for the correctness of this observation. In future deliberations for the forming of the law of war this principle will therefore have to be kept in mind constantly."*<sup>2</sup>

## 7. Difference between Reality and Ostentation

When the laws of war were being formulated in the Hague Convention of 1907, the European politicians were so overwhelmed by their ostentatious civilization that

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<sup>1</sup> Nippold, Otfried, *The Development of International Law After the World War*, p. 9, (London, 1923).

<sup>2</sup> Nippold, Otfried, *The Development of International Law After the World War*, p. 112-113, (London, 1923).

ignoring the real warring tendencies and practices of their peoples, formulated such laws which outwardly seemed to be very civilized, lofty and very humane, but actually their armed forces were not ready to follow them. Baron Marschall de Bieberstein, the First Delegate of the German Delegation to the Hague Convention of 1907, participating in one of the debates had cautioned:

*"I have no need to tell you that I entirely recognize the importance of the codification of rules to be followed in war. But it would be a great mistake to issue rules, the strict observation of which might be rendered impossible by the law of facts. It is of the first importance that the international maritime law which we desire to create should only contain clauses execution of which is possible from a military point of view – is possible even in exceptional circumstances. Otherwise the respect for law would be lessened and its authority undermined."*<sup>1</sup>

However, at that time this caution was not taken seriously. The result was that just four years after the Hague Convention when occasion arose for the practical implementation of the agreed conventions during the course of the Italo-Turkish War (Libyan War – 1911-1912) and the First Balkan War (1912-1913), they were openly contravened, and one year thereafter the flood-gates opened when the First World War smashed all the barrages at one go. When this happened, the European politicians, statesmen and jurists realized that it is absolutely useless to confine war within the boundaries of imaginary laws and ostentatious regulations. Now we can very easily ascertain the inclination of these people from the views that they have begun to present in this behalf. A German scholar, Max Huber, writes:

*"In the future it must be the mission of the science of international law to rid the field of all imaginary and*

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<sup>1</sup> Scott, James Brown, *The Hague Peace Conferences of 1899 and 1907*, Vol. 1, p. 586-587, (Baltimore, 1909). [Translator]

*ambiguous norms and to establish sure positions. Out of optimism and the wish for a rapid and extensive development of International Law, it must in the future guard against being satisfied with incompleteness and uncertainties. It must inexorably destroy the false appearance which diplomacy, perhaps out of respect for public opinion, wished to awaken through the so-called progress of International Law."*<sup>1</sup>

Prof. Nippold was so disturbed by this failure that he opines to totally remove the Laws of War from the purview of the International Law; rather he is not even ready to admit that whether war actually has any relationship with the law or would it be right to bind it within the boundaries of any law. He says:

*"The science of international law has hitherto apparently gone rather too far in the treatment of the war problem. In the endeavour to interpret war also from a legal standpoint as far as possible, the doctrine has deemed it necessary to invest war with the character of a legal institution, and the doctrinal discussions about war have often strayed far from reality. These theorists overlooked the fact that law will never entirely encompass war and can never regulate it in all its relations; and this for the simple reason that war itself is already a negation of law, and because in the waging of war it is not legal considerations but the necessities of warfare that are the impelling motives. It would have been far better if the doctrine had in general simply adhered to facts. It is a fact that war is not a legal institution but simply the application of force. War is struggle, employment of force, and in so far as it is to serve the enforcement of claims it is self-help. This is the definition military science gives of war, and with this the science of international law should have contented itself; for from this definition of war it already appears that war, considered as a whole, is outside the sphere of law. Nor is this truth altered by the fact that attempts have been made*

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<sup>1</sup> Nippold, Otfried, *The Development of International Law After the World War*, p. 113, (London, 1923).

*to regulate war in various ways, or that a modern law of war has been codified."*<sup>1</sup>

Another eminent jurist, E. Hurwicz, observes that:

*"Law is so incompatible with the nature of war that International Law which regulates the relations of states in time of war could only have an 'anarchical nature.' The International Law of War is, and remains, according to its very nature, only an attempt at adjustment."*<sup>2</sup>

This is also emphasized by Max Huber. He says:

*"The standard is the law of peace conditions which from the standpoint of modern history represents the normal state of nations. ...The tasks with which the international legal order is confronted in times of peace are so significant that this order, and with it the science of international law, could afford wholly to fall back upon this position and treat war as a passing reversion to the natural (or primitive) state of war of all against all, as beyond all legal order and examination. Moreover, even before the war, the conception became more and more established in science that war was something primitive, and that the unusually strong development of the law of war implies an aberration, because it deceives us about the nature of war and obscures the politically fundamental problem: the preservation of a peaceful state of law or a relapse into the lawless state of force."*<sup>3</sup>

Max Huber further observes:

*"The idea of conceiving war itself as a legal institution and of regulating it in its course like a suit at court is an aberration of International Law, resting upon Roman and mediaeval conceptions."*<sup>4</sup>

The aforesaid are the observations of those who are Europe's most eminent experts and exponents of

<sup>1</sup> Nippold, Otfried, *The Development of International Law After the World War*, p. 7-8, (London, 1923).

<sup>2</sup> *Ibid*, p.8.

<sup>3</sup> Nippold, Otfried, *The Development of International Law After the World War*, p. 8, (London, 1923).

<sup>4</sup> *Ibid*, p.112.

International Law. Indeed it must have greatly hurt their sentiments to acknowledge the weakness and worthlessness of their esteemed and exalted Laws of War. And when the very first European international war proved that the mighty fort of Laws of War which they had built so laboriously is weaker and unstable than a cobweb and a water bubble, they began to fear that the instability of the Laws of War, which is a part of the International Law, might lead to the loss of credibility of the entire International Law. Therefore, they openly acknowledged that it is highly impossible to bring war under any law and regulation; there is a natural incompatibility between war and law; war is against the very nature of law; and the real laws of war are not those which have been codified in the Hague and Geneva conventions, rather they are codified in the battle-field by the big guns and the bayonets of the soldiers.

This is the real nature of the Laws of War which are called the civilized laws of the 20th century.

### **8. Differences between the Militarists and the Jurists**

The real reason behind this disparateness of reality and ostentation is that from the very beginning there have been two groups with two diverse views. One group is comprised of philosophers of ethics, jurists and politicians and statesmen, who for the sake of ostentation and appearances, and succumbing to the exquisite sensitivities is trying to bind war within the ethical boundaries and just mould it in the shape of a civilized rivalry. The other is the group of militarists, which considers war as an act of self-help and argues that man goes to war only when he fails in his legal efforts and wants to achieve his objective after defeating the enemy by adopting every possible method. There is a basic contradiction between these two points of view. One views the achievement of the objective as the main concern; the other is desirous of upholding the ethics

and civility. One group opines that it is meaningless to obey a law after breaching it; the other group views abiding the law as one of the particularities of civilization and hence disobedience of law should also be with some kind of compliance with the law. This basic difference is not confined to just views and perception, but their spheres of action are also different. The juristic and political group has power over the international conferences and conventions and hence using its authority and powers it binds war, just on a piece of paper, in a beautiful clamp; but during the war it becomes impossible for this group to keep the binds of the clamp intact. On the other hand, the militarists control command of the armed forces, organization of war departments, procurement and upkeep of the weaponry, and leads the armed forces during the war. Hence, during the course of war this group tears away every binding-wire of this beautiful clamp, and against the will of the juristic group, does all those things which are unlawful under the Hague Conventions but are lawful under the law of war exigencies.

It is evident that action always carries the credibility rather than the declaration. Anyone can declare anything; what we have to see is how it is being practically implemented. We do not consider the law found written on paper as the real law of war of the West, rather that which the nations of the West act upon. Therefore, we consider the militarists more credible than the jurists, because it is the single authoritative group. By studying the thoughts and views of this group we would be able to ascertain the real natural inclination of the Western nations; indeed that is the most important thing to find out.

The renowned German military expert, General Carl von Clausewitz writes in his book *Vom Kriege* (*On War*):

*"Violence arms itself with the inventions of Art and Science in order to contend against violence. Self-imposed restrictions, almost imperceptible and hardly worth*

mentioning, termed *Usages of International Law*, accompany it without essentially impairing its power. ...Now, philanthropists may easily imagine there is a skilful method of disarming and overcoming an enemy without great bloodshed, and that this is the proper tendency of the Art of War. However plausible this may appear, still it is an error which must be extirpated; for in such dangerous things as War, the errors which proceed from a spirit of benevolence are the worst. ...and to introduce into the philosophy of war itself a principle of moderation would be an absurdity....War is an act of violence pushed to its utmost bounds; as one side dictates the law to the other, there arises a sort of reciprocal action, which logically must lead to an extreme."<sup>1</sup>

In *The War Book of the German General Staff* (*Kriegsbrauch im Landkriege*), which has been referred to earlier in this book, it is written:

"Moreover the officer is a child of his time. He is subject to the intellectual tendencies which influence his own nation; the more educated he is the more will this be the case. The danger that, in this way, he will arrive at false views about the essential character of war must not be lost sight of. The danger can only be met by a thorough study of war itself. By steeping himself in military history an officer will be able to guard himself against excessive humanitarian notions, it will teach him that certain severities are indispensable to war, nay more, that the only true humanity very often lies in a ruthless application of them. It will also teach him how the rules of belligerent intercourse in war have developed, how in the course of time they have solidified into general usages of war, and finally it will teach him whether the governing usages of war are justified or not, whether they are to be modified or whether they are to be observed. But for a study of military history in this light, knowledge of the

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<sup>1</sup> Clausewitz, Carl von; *Vom Kriege* (*On War*), Vol. 1, p. 2-3, translated into English from German by Col. J.J. Graham, (London 1909).

*fundamental conceptions of modern international and military movements is certainly necessary.*"<sup>1</sup>

In the same book, in another place, the laws of war based on the Hague Conventions and other such treaties have been declared as the crest of a wave of "sentimentalism and flabby emotion," which are "in fundamental contradiction with the nature and object of war itself."<sup>2</sup>

In 1882 Admiral Aube, in an article on naval warfare of the future published in the *Revue des Deux Mondes*, expressed his opinion that:

*"As wealth is the sinews of war, all that strikes at the wealth of the enemy – a fortiori all that strikes at the source of wealth – becomes not only legitimate but obligatory. It must therefore be expected that the fleets, mistresses of the sea, will turn their powers of attack and destruction, instead of letting the enemy escape from blows, against all the cities of the coast, fortified or not, peaceful or warlike, to burn them, to ruin them, and at least to ransom them without mercy. This was the former practice; it ceased; it will prevail again. Strasbourg and Peronne assure it."*<sup>3</sup>

From the aforesaid remarks it is quite evident that the group that has the responsibility to practically implement the fascinating and humane laws of war formulated by the moralists and politicians considers them impractical and nonsensical, and abhors their implementation vis-a-vis the exigencies of war. In the beginning, the jurists kept on struggling hard against the militarists in support of its stand, but when during the World War the militarists proved their point with their military power and strength, the former had to surrender their fanciful thoughts in the face of the bitter facts and accept the concept of war which the militarists had presented and proved practically in the

<sup>1</sup> Morgan, J. H., *The War Book of the German General Staff* (a translation of the booklet *Kriegsbrauch im Landkriege*), p. 72-73, (New York, 1915).

<sup>2</sup> *Ibid*, p. 9.

<sup>3</sup> *Revue des Deux Mondes*, (1882), p. 314.



field. You have read about the admission of defeat by such eminent jurists like Prof. Nippold, Max. Huber and others. In the ensuing pages you will also read about how the clauses of these Laws of War were amended under the pressure of the material facts.

## **THE FUNDAMENTAL NATURE OF WESTERN LAWS OF WAR**

As far as the fundamentals were concerned, we have very well explained away the reality of the International Law and its branch, the Laws of War as expounded by the Western civilization. What is this International Law? What is its worth as a law? How much weight it carries in its real sense? Then again what status it gives to its own branch, the Laws of War? To what degree it possesses the force and power to bind war within the ethical boundaries? How far is it helpful in bringing war under some kind of order and regulation? All these questions have been answered in the foregoing discussion to a greater extent, and it has been made clear that what the West considers as the Laws of War are actually not laws at all.

Now, we would like to see how far this so-called Laws of War, whatever might be their form, have been successful in limiting and regulating war. What is the status of the limitations and the regulations that they have formulated vis-a-vis the limitations and regulations promulgated by Islamic Law? What is the difference between their real and ostentatious regulations? What is the relationship between the apparent progressions of human thoughts in this regard with the Islamic Law? And in truth how well they have served the humanity?

### **1. History of Laws of War**

Up till the 17th Century, Europe was void of any conception about the laws of war. Both fundamentally and practically war was understood to be outside the limits of

ethical confines and regulations, and the belligerents had absolute and unlimited rights to devastate one another. It is understood from the details of the conduct of wars of that time available in history that when two nations used to wage war against one another they never desisted from committing most heinous atrocities to devastate their enemy. Practically and even theoretically they did not believe in making any difference between combatants and non-combatants.

*"Even so humane a man as Grotius, writing at a period so late in the world's history as 1625, was obliged to declare that by the law of nations it was lawful to put to death all persons found within the enemy's territory, including women and children and such resident strangers as did not depart within a reasonable time."<sup>1</sup>*

This unlimited right was used so freely and without any restraints during the Thirty Years' War (1618 to 1648) that the entire Europe was horrified. The ferociousness of this war and the devastation it caused, both materially and in human life created a strong and general desire in the thinkers and intellectuals of Europe that acts of war should be brought under the limits of some ethical boundaries. Among these intellectuals was Huig van Groot, commonly known as Hugo Grotius, born in Holland in 1583. Hugo Grotius wrote his famous book of law *De Jure Belli ac Pacis* which is considered the foundation of International Law. This book was published in Paris in 1625 and immediately attracted the attention of the learned, statesmen and thinkers, and there was a general awakening which prompted many authors and thinkers to research and write further on the subject. Later the aforesaid book written by Grotius was incorporated in the curriculum of University of Heidelberg.

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<sup>1</sup> Lawrence, Thomas Joseph, *The Principles of International Law*, p. 390, Sixth Edition (1910).

Nearly half a century after Grotius, Samuel Pufendorff published his book *De Jure Naturae et Gentium*. Pufendorff further developed and criticized the Grotian system in a series of works published between 1661 and 1694. Thereafter, many books were published which, by the 18th Century, helped in the formulation of a complete code of International Law. In 1780 the eminent jurist of England, Jeremy Bentham, coined the phrase "International Law" to name this system of law, by which name it is now known all over the world.

The first practical effects of these progressive thoughts were seen in Europe when the European politicians and statesmen accepted the principles propounded by Grotius and incorporated them in the peace treaties negotiated and signed in Westphalia after the Thirty Years' War, particularly the recommendation that during war, as a part of noble consideration (not as law), women, children, the aged, the monks, the farmers, the traders and the prisoners of war should be protected from slaughter and pillage. This was the first ray of light which appeared on the dark horizon of Europe 1648 years after the birth of Jesus (peace be upon him), whereafter atrocities committed during the wars were not so ferocious as they were during and before the Thirty Years' War. However, as far as the reformation in war ethics and real improvement in the acts of war were concerned, no progress could be made in Europe for another 200 years, inasmuch as in the middle of the 19th Century, during the Indian War of Independence of 1857 (which was wrongly portrayed as a "mutiny"), the British armed forces committed such horrible atrocities on the Indians, mere imagination of which is enough to run a shiver down the spine of human conscience. As far as our knowledge goes, there was no code of laws of war in Europe till the middle of the 19th Century which all the States had agreed upon or which had been promulgated in the European armed forces as the law of war. Amongst the

Western nations, it was the USA which took the first step in this regard and in 1863 codified the laws of war to regulate the actions of her armed forces during the American Civil War. These are known as "Lieber Instructions," which later greatly influenced Germany, France, Russia and England to also issue similar instructions to their armed forces and gradually all the European States adopted the very same methods and laws of war which 1200 years before them an *Ummi* ("unlettered") Prophet Muhammed (peace be upon him) and his *Ummi* vicegerents (Caliphs) of an "uncivilized" State of Arabia had promulgated.

In 1864, the Government of Switzerland convened an international conference in Geneva, wherein, for the first time, rules and regulations were formulated pertaining to the sick, the wounded and medical personnel attending them, and additions and clarifications to them were made in the Second Geneva Conference held in 1868. But Europe remained without a complete code of this branch of the laws of war until the 1906 Third Geneva Conference fulfilled this requirement.

As regards the use of noxious and deadly weapons, Europe was in the dark till 1868. That year for the first time a military commission was convened in St. Petersburg which recommended the Western States not to use explosive projectiles whose weight was less than 400 grams, exploding bullets which explode inside human bodies and poisonous gases. According to this recommendation, all Western States, except the US and Spain, signed a declaration on November 29, 1868.

Thereafter, on the initiative of Czar Alexander II of Russia, a conference was convened in 1874 at Brussels in which for the first time laws concerning war on land were formulated. However, none of the States ratified it; rather German and Britain refused to recognize them.

The recommendations of Brussels were lying unavailing for 25 years until 1899 when on the initiative of

Czar Nicholas II the first Hague Conference was convened. Twenty-six States of the world participated in the conference and the following conventions and declarations were adopted:

1. Convention for the peaceful settlement of international differences.
2. Convention regarding the laws and customs of war on land.
3. Convention for the adaptation to maritime warfare of the principles of the Geneva Convention of 22 August 1864.
4. Ratification of the declaration St. Petersburg concerning exploding projectiles. (This was only for a period of five years.)
5. Ratification of the declaration St. Petersburg concerning exploding bullets.
6. Ratification of the declaration St. Petersburg concerning use of poisonous gases.

The above Conference could not complete its task and for the next eight years the work of formulation and codification of laws of war remained suspended. In 1907 on the initiative of American President Theodore Roosevelt and Russian Emperor Czar Nicholas II another Hague Conference was held and because of its efforts Europe, for the first time, got a complete code of law. The Conference not only made additions and amendments to the Conventions and Declarations of the 1899 First Hague Conference, but also adopted the following additional Conventions and Declarations:

1. Convention for the pacific settlement of international disputes.
2. Convention respecting the limitation of the employment of force for the recovery of contract debts.
3. Convention relative to the opening of hostilities.

4. Convention respecting the laws and customs of war on land.
5. Convention respecting the rights and duties of neutral powers and persons in case of war on land.
6. Convention relative to the status of enemy merchant ships at the outbreak of hostilities.
7. Convention relative to the conversion of merchant ships into warships.
8. Convention relative to the laying of automatic submarine contact mines.
9. Convention respecting bombardment by naval forces in time of war.
10. Convention for the adaptation to naval war of the principles of the Geneva Convention.
11. Convention relative to certain restrictions with regard to the exercise of the right of capture in naval war.
12. Convention relative to the creation of an International Prize Court.
13. Convention concerning the rights and duties of neutral Powers in naval war.

Declaration prohibiting the discharge of projectiles and explosives from balloons.

The Conference also unanimously adopted the following resolution, besides many other "Voeux" (Wishes):

*"The Second Peace Conference confirms the Resolution adopted by the Conference of 1899 in regard to the limitation of military expenditure; and inasmuch as military expenditure has considerably increased in almost every country since that time, the Conference declares that it is eminently desirable that the Governments should resume the serious examination of this question."*

The Conference also recommended convening of a Third Peace Conference at a future convenient date.

Although the Second Peace Conference was successful in formulating a wider code of law, it could not be called a

complete code because necessity arose for more rules and regulations governing submarines, air force and use of poisonous gases, which could be achieved only in the Washington Conference of 1922 on the Limitation of Armaments. We do not know how many more conferences would be required to deal with the issues that would crop up in the future.

From this brief history, it is quite evident that the Western world came to know about the civilized laws of war only about 60 years ago, and if we consider the time when these laws of war were completely codified, leaving aside the period of time when its formulation commenced, we can say that the Western world became aware of the civilized laws of war just about 20 years ago. As against this, look at Islam which possesses a complete code of law since more than 13<sup>1/2</sup> centuries; as far as its principles are concerned, no necessity arose till today to convene any conferences or pass and adopt any conventions or treaties to make any additions or deletions to it. In spite of this fact, the principles and the rules and regulations adopted by the Western world now, after much experimentation, devastation and ruination, are almost the same which Islam had already adopted and codified long time ago, and there are many other Islamic principles which the Western world has yet to access and adopt.

## **2. The Judicial Status of the Hague Conventions**

From the above narration it is clear that the Conventions of the Hague Conference of 1907 had embraced all the treaties and conventions adopted between different States before it. Therefore, to evaluate the Western laws of war, it is enough to critically analyze the codified and ratified Conventions of the Second Hague Conference.

But, before beginning the evaluation, it is necessary to examine the constitutional status of this Conference and the

status and sanctity of the Conventions and Declarations adopted in this Conference as a "law." For this purpose, we have to refer back to the Hague Conventions themselves and have to rely on the explanations of the Western eminent jurists in this behalf.

To establish the judicial status of these Conventions, the first thing to ascertain is how far the States are bounded by them. This has been clarified in the Conventions themselves that the States are not bounded to implement them literally; rather they take the responsibility only to take them into consideration while formulating their own laws of war. Hence, the first Article of the Fourth Convention of the Second Hague Conference which pertains to Laws and Customs of War on Land (Hague IV), just recommends that:

*"The Contracting Powers shall issue instructions to their armed land forces which shall be in conformity with the Regulations respecting the laws and customs of war on land, annexed to the present Convention."*

The next question pertains to the jurisdiction of these laws. The answer that we get from the Hague Conventions is that they are enforceable only between those States who are amongst the Contracting Powers of the Conventions. If any party were to be a non-Contracting Power or a non-Contracting Power were to ally with a Contracting Power in a war the Conventions would be rendered unenforceable. The second Article of this Convention states:

*"The provisions contained in the Regulations referred to in Article 1, as well as in the present Convention, do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention."*

A similar article as above has been placed under every Convention, which makes it clear that these civilized laws have not been adopted as moral obligations; rather they are mere mutual treaties between some States that assure each other that in the event of any conflict each one of them



promises to treat the other humanely provided in return it is also treated in a similar manner.

The third question is how far these laws possess the enforcement power. In this regard, the Hague Conventions clarify that no State is bound to always follow them; rather every State is free to come out of them. Hence, at the end of every Convention we find an Article to this effect:

*"In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherlands Government, which shall at once communicate a duly certified copy of the notification to all the other Powers, informing them of the date on which it was received. The denunciation shall only have effect in regard to the notifying Power one year after the notification has reached the Netherlands Government."*

The meaning and purport of the aforesaid Articles is very clear. In order to throw more light on this, we quote below those elucidations of Mr. James Brown Scott which he wrote in the "Introduction" of his book *The Hague Conventions and Declarations of 1899 and 1907*, issued by the Carnegie Endowment for International Peace. Mr. Scott was a Trustee and Secretary of the Carnegie Endowment from 1910 to 1940, and was a Director of its Division of International Law. He was America's most eminent expert on International Law. He writes:

*"What is the nature of this international institution? It is sometimes called the Parliament of Man, but this title is both misleading and inaccurate. It is not a parliament in the technical sense, and its actions only affect the States represented. ... A body of this kind is, as its name implies, a Conference. It is not a legislature. Its Conventions are recommendations to the Governments participating in the Conference to adopt them according to their respective laws and to deposit the ratifications of them, in accordance with the terms of the Conventions, at The Hague. The signing of a Convention by the delegates at The Hague creates no legal obligation. As the delegates act under instructions it does, however, create a moral obligation to submit the*

*Conventions and signed Declarations to the appropriate branch of the Government in order to be duly approved by this body and to invest them with the force of law in so far as the particular country is concerned. The Conventions and signed Declarations become binding only after the ratifications have been deposited at The Hague."*<sup>1</sup>

Baty and Morgan in their book *War: Its Conduct and Legal Results* write:

*"It will be obvious, then, that the scope and authority of the Hague Conventions is somewhat precarious. Nonetheless, however, we are entitled to regard those of them, and those articles of them, which have received the assent of all the contracting Powers as an approximation to a general code of the laws of war, and by them the acts of the contracting parties will by humane and civilised people surely be judged."*<sup>2</sup>

From the above explanations, it is quite evident that the Laws of War formulated in the Hague Conferences, by virtue of their legal status cannot compete with Islamic laws of war. The laws of Islam have been made absolutely obligatory on all Muslims. No Muslim, as long as he remains a Muslim, has been given the right to come out of this obligation. It is possible for a person to relinquish Islam itself and thus unencumbered himself from the bondage of Islamic laws of war; but it is not permissible for a person, by remaining a Muslim, to disbelieve in the Islamic laws of war, or not to believe in them as having a writ over him, or by changing or abolishing them according to his whims and fancies formulate some other laws and declare such new laws as the laws of Islam. Like the laws of the Western world, Islamic laws have not been formulated by the Muslims; rather they have been formulated by a Supreme Power and they have been issued

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<sup>1</sup> Scott, James Brown, *The Hague Conventions and Declarations of 1899 and 1907*, p. ix-x, (New York, 1915).

<sup>2</sup> Baty, Thomas & Morgan, John Hartman, *War: Its Conduct and Legal Results*, p. 171.

to the Muslims only for obedience. Now, Muslims have only two options open for them. If they wish to remain Muslims and if they believe in the authority of that Supreme Power, then they must obey these laws too; if they do not want to obey these laws, it is the inevitable proof that they do not believe in that Supreme Power and they should come out of the circle of Islam. Other than these two options, Muslims have no other option.

On the contrary, the formulators of the Western laws of war are the people of the West. Therefore, they have every right to act according to the laws formulated by them as long as they want to, and formulate other laws by abolishing them whenever they want. According to the Western principles of law, whenever they do that, the earlier law is abolished as a law and the new law takes its place. However, if the Muslim nations, by rebelling against Islam, were to formulate tens of thousands of laws, none of them can become the law of Islam; rather the law of Islam would always remain that which has been formulated, codified and promulgated by Allah the Almighty and His Prophet Muhammed (peace be upon him).

In another aspect the Islamic laws of war have fundamental pre-eminence over the Western laws. The Western laws are not laws but are treaties which are abided on the condition that the other parties too abide by them. On the contrary the Islamic laws are not treaties but, in fact, are laws. There is no provision in them that stipulates that they would be acted upon only when the opposite party agrees to abide by them. In the era in which these laws were formulated and promulgated, it was impossible to have such an agreement with the non-Muslim States and nations. On the contrary, the non-Muslim belligerents used to fight the Muslims in the most barbaric and ferocious manner, and they had become more audacious in their barbarity because they knew that the religion of Muslims restrained the Muslims from adopting similar barbaric

attitudes in retaliation. Hence, in all these aspects, the Islamic laws of war and other Islamic laws have pre-eminence over the Western laws at all levels, and this fact is so obvious that it cannot be denied under any circumstance.

## THE RULES AND REGULATIONS OF WAR

Now leaving the fundamental arguments, we turn our attention to the detailed rules and regulations of war. In this connection, we would try to study what laws have been established with regard to war in the Hague Conferences, and to what extent the Western nations and States accept them as practicable.

### 1. Declaration of War

In the issues relating to war, the first issue is how to commence a war. In the earlier days, it was common practice to inform the enemy through ambassadors and heralds before commencement of hostilities. In this era too the scholars of international law used to stress upon the necessity of declaration of war, and a few were of the opinion that it was unlawful to attack without a declaration. Later, the inclination of the experts was that there is no need for a formal declaration of war.<sup>1</sup> Hence, the States had adopted the custom of commencing hostile activities without issuing a declaration of war. From a study of history, it is ascertained that from 1700 AD to 1872, 120 wars were fought in Europe, out of which in only 10 wars customary declarations of war were issued.<sup>2</sup> Out of these wars, some were commenced even before the severance of the diplomatic relations with one another. For example, in 1812 before the severance of diplomatic relations, the United States of America declared war against England and

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<sup>1</sup> Lawrence, Thomas Joseph, *The Principles of International Law*, p. 299 (Boston, USA, 1895).

<sup>2</sup> Maurice, J. F., *Hostilities without Declaration of War*, p. 4 (London, 1883).

seized the English ships anchored at her harbours and also invaded Canada, which was a British colony at that time. Similarly, in 1854 the British and French fleets entered the Black Sea "with orders to 'require, and, if necessary, compel Russian ships of war to return to Sebastopol, or the nearest port.' As a consequence of this the Russian Ambassador was withdrawn from London, and thereupon the English and French Ambassadors were withdrawn from St. Petersburg."<sup>1</sup> Thereafter, at the end of the 19th Century, Europe again reverted to the old ways, and generally declarations of war were being issued before the commencement of hostilities. Hence, before the start Franco-Germany War of 1870, Russo-Turkish War of 1877, Spanish-American War of 1898 and the Second Boer War of 1899, formal declarations of war were issued. But in the beginning of the 20th Century, the war between Russia and Japan commenced without any declaration of war when Japan suddenly attacked Russia.

Till the beginning of the 20th Century, there was no regulation regarding commencement of war. The States, whenever they wanted, used to suddenly attack the enemy, and whenever they felt opportune used to issue a declaration of war too. In the Hague Conference of 1907, for the first time, a need was felt to regulate it. Hence, a Convention (No.III) was adopted comprising of the following articles:

1. The Contracting Powers recognize that hostilities between themselves must not commence without previous and explicit warning, in the form either of a reasoned declaration of war or of an ultimatum with conditional declaration of war.
2. The existence of a state of war must be notified to the neutral Powers without delay, and shall not take effect in regard to them until after the receipt of a notification,

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<sup>1</sup> *Ibid*, p. 44, 66.

which may, however, be given by telegraph. Neutral Powers, nevertheless, cannot rely on the absence of notification if it is clearly established that they were in fact aware of the existence of a state of war.

As stated earlier, the above Convention was formulated only at the beginning of the 20th Century and that too it was applicable only to the Contracting Powers of the Conference.<sup>1</sup> On the contrary, Islam had promulgated this law nearly 1400 years ago. Under this law Muslims are not permitted to commence war against any one of those people and nations with which they have a peace treaty until and unless the opposite party is not duly informed that because of certain actions on its part the peace treaty has been annulled and that both the parties have become inimical to one another. This law also applies to those people and nations with whom Muslims have no formal peace treaty; Muslims cannot attack them without any warning or declaration of war.<sup>2</sup>

## **2. Combatants and Non-Combatants**

When once hostilities commence, the most important question that arises is how the people of the belligerent nation should be treated. Till the 17th Century, Europe was ignorant of the difference between belligerents and combatants. According to it, every belligerent was a combatant, and hence his killing and pillage and confiscation of his property was permissible; no distinction was ever made in this regard between women, children, the aged, the sick or any other person belonging to any other category of non-combatants. Thereafter, the authors of the international law of the 17th and 18th Centuries tried to differentiate between combatants and non-combatants, but

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<sup>1</sup> But it remains a fact that this Convention was never complied with. Hence, in the Second World War, whichever State commenced the hostilities against another State, it was done without making any formal declaration of war.

<sup>2</sup> For details refer Chapter V, sub-section "Declaration of War" of this book.

no concrete opinion about this differentiation could be arrived at which could be acceptable to all and which could be implemented during the course of war. In the 19th Century, this question was resolved by defining combatants as those who actively take part in war, and the non-combatants as those who do not take part in it. But this definition was so brief and abstract that it became impossible to stick on to it while elaborating as to its details and particulars. Thereafter, another principle was agreed upon that only the armed forces of the enemy shall be considered combatants and all other categories of the enemy population shall be considered non-combatants. However, this gave birth to some other complicated issues. According to Prof. Karl Lueder, a German writer on international law, the right of the people of a State to defend their fatherland cannot be abrogated under any justifiable line of reasoning. Hence, naturally, the question arises: what would be the status of the inhabitants of a State if they, by and large, taking up arms rise and commence hostilities against the enemy in an unorganized manner to save their country; whether they should be treated as combatants and be given the same privileges and rights as given to a regular army, or by declaring them non-combatants be treated as robbers and pirates as per the Laws of War? The aforesaid law gives the answer that if a non-combatant takes part in the hostilities he shall be entitled neither to the rights of the combatants nor the non-combatants. That is, if he is captured he will be killed, if wounded will not be entitled to any kind of medical assistance, and during the war no war-related courtesies will be extended to him. The distinction between combatants and non-combatants established by this law became a major cause of devastation and suffering for those people who rise, just because of patriotism, to gain independence or defend their country and who are not part of a regular army establishment.

This issue came into focus with all its importance before the International Law when France started to recruit irregulars called *Franco-tireurs* ("free shooters") in the Franco-Prussian War of 1870, and Germany refused to give them the rights of the combatants. In the 1874 Brussels Conference, this issue was discussed at great length and finally a definite distinction was established between the combatants and non-combatants:

*"The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps, fulfilling the following conditions:*

- To be commanded by a person responsible for his subordinates;
- To have a fixed distinctive emblem recognizable at a distance;
- To carry arms openly; and
- To conduct their operations in accordance with the laws and customs of war.

*"In countries where militia or volunteer corps constitute the army, or form part of it, they are included under the denomination "army."*

Although the aforesaid recommendation was not accepted at the Brussels Conference, it was later ratified at the Hague Conferences of 1899 and 1907, under the "Regulations Respecting the Laws and Customs of War on Land." Further, under Articles 2 and 3 of the said Regulations it has also been specified that:

*"The population of a territory which has not been occupied who, on the enemy's approach, spontaneously take up arms to resist the invading troops without having time to organize themselves in accordance with Article 1, shall be regarded as belligerent, if they respect the laws and customs of war.*

*"The armed forces of the belligerent parties may consist of combatants and non-combatants. In case of capture by the enemy both have a right to be treated as prisoners of war."*

No doubt, the aforesaid issue was thus solved. But another issue remained. Free people alone are not



occasioned to take up arms; sometimes semi-autonomous and enslaved people also have to take up arms in order to secure their usurped freedom and rights. To fight for freedom and sovereignty is a fundamental right of every nation and people, and if a nation takes up arms in order to get rid of a powerful enemy, it cannot be declared a crime on any grounds. Hence the question is that if a nation wages war to throw away the shackles of slavery, will every individual of that nation be declared a criminal? Will they not be given the rights of combatants? Will they be killed like robbers and pirates after their capture? The Hague Conferences have not tried to solve these questions, and, as quoted above, practically the inclination of the West is that such people will neither be benefitted with the rights of the combatants nor the leniencies shown to the non-combatants. They are destined to become the fodder of canon and guns; their populations are either to be massacred or individually captured and killed. The horrific and terrific tyranny, oppression and atrocities practised by England in the North-Western Frontier of India, by Spain in Rif (mountainous region of Morocco) and France in Syria are proofs enough that the law of the Western civilization does not recognize the right of any other nation to wage war against Western colonial powers to attain independence and sovereignty.

The above rule governing the distinction between the combatants and non-combatants is also wrong on the ground that it declares all those people who do not take up arms during war as non-combatants. Although the Western world, for a period, was proud that it has confined the hostilities to the armed forces and that the non-combatant groups of people have been excepted from the effects of war,<sup>1</sup> now they admit that fundamentally it is wrong to

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<sup>1</sup> The actual reason behind the stress that the Western politicians place upon the protection of non-belligerent groups from the effects of war is that they are more interested in their trade and commerce and want its continuation under

discriminate between combatants and non-combatants on the ground of belligerency and non-belligerency and that practically it is inconceivable. Instead of stating our own views in this regard, it is better to quote the views of those European scholars and writers who, after the experiences of the First World War, have now come to the conclusion that the discrimination they had established between the combatants and non-combatants, over which they were very proud of, was quite baseless. Prof. Nippold writes:

*"Modern commerce has shown that in the present age of commerce, in which millions of people live scattered about in foreign lands or move from place to place, it is impossible still to regard war as a matter which only concerns the military persons of the participating states. It has shown that not alone in the belligerent countries, but even in the neutral world, there is really no one who is not in some way or other affected by a great war. The mutual connections between individuals in all walks of life are today so ramified and complicated that no one can entirely escape the effects of such a war. He who is not affected as a military person or as one who must enter into this war with body and soul will nevertheless be affected by the war in his family life, or his economic condition, or his social, spiritual, and moral relations. The attempts to curb or eliminate such effects have proved to be impotent. No one escapes these effects. It is, therefore, an empty theory that war is an affair of states, and that the carrying on of war concerns only military persons. In the age of commerce*

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any circumstance. Hence, in the Hague Conference of 1907 a *vœu* (wish) was put forth "that in case of war, the responsible authorities, civil as well as military, should make it their special duty to ensure and safeguard the maintenance of pacific relations, more especially of the commercial and industrial relations between the inhabitants of the belligerent Powers and neutral States" [Scott, James Brown, *The Proceedings of the Hague Conferences: The Conference of 1907*, Vol. I, p. 164 (New York, 1920)]. But the fact is that this wish could not be fulfilled, nor has it been ever fulfilled in any of the wars till today. The happenings and events in the First World War [and the Second World War] has proved that the European States themselves are not capable of fulfilling it.

*war is an affair of peoples who conduct it with all their physical and economic strength."*<sup>1</sup>

The same author further states:

*"War is directed at the overcoming of the hostile state and nothing else. Therefore all that passes beyond this goal in injuries inflicted upon the enemy, that is, his land and his citizens, must be forbidden. However, it must be remembered that the state consists of people, not merely of soldiers. Already Moltke, seeing this, opposed the theory that the only task of war was the weakening of the military strength of the enemy, and laid emphasis on involving all the resources of the hostile government, its finances, railroads, food resources -- even, its prestige(!). If it is the purpose of war to bend the enemy's will by force, it then becomes necessary, yes permitted, to employ military means not only against the opposing army, but also against all the economic forces of the adversary. ...Now since the economic strength of the state is composed of the strength of the individuals, it is inevitable that war should be directed against the economic interests and the property of individuals also, in so far as this is profitable and imperative for the attainment of the war aim."*<sup>2</sup>

Prof. Nippold further states:

*"Moreover, states must, as a matter of course, allow themselves in economic war to be guided by the necessities of war, just as is the case in military war. In both cases all means calculated to subdue the enemy will be employed. Economic war can, therefore, not be limited to obstructing enemy commerce, but it must seek to strike a vital blow at the enemy's economic life. It is thereby unavoidable that private individuals [i.e. non-combatants] be struck."*<sup>3</sup>

Burckhardt, in his book *Politisches Jahrbuch der schweizerischen Eidgenossenschaft*, 1915, p. 4, writes:

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<sup>1</sup> Nippold, Otfried, *The Development of International Law after the World War*, p. 114-115, (London, 1923).

<sup>2</sup> Nippold, Otfried, *The Development of International Law after the World War*, p. 120-121, (London, 1923).

<sup>3</sup> Ibid, p. 122.

*"The well-meant doctrine that war is merely a struggle between armed forces in contrast to the peaceful intercourse of the civilian population has proved itself an Utopia; the army cannot be separated from the people, nor the state from society; in spite of all theory war is waged between peoples, because all classes of the population must aid in the struggle, even though they do so with different weapons, inasmuch as they are all most intimately related to the state. No distinction can any longer be made between the state and the whole country; war is not only a military struggle between two armies, it is also an economic struggle between two countries."*<sup>1</sup>

Burckhardt further remarks in his aforesaid book (p. 23):

*"The destruction of commerce is at bottom a more humane method of warfare than the destruction of persons. And the conquering of the military strength of the enemy would in the last analysis be purposeless if the control of the economic resources of the country would not force the hostile government to surrender. It is for this reason comprehensible that every belligerent establishes for himself this aim ...The power of the military resistance of a state is so closely interwoven with its economic strength that its industrial life is just as indispensable to the state for the continuation of war as the life of the soldier. Therefore, the belligerent dare not be forbidden to attack also the economic resources of his opponent. ...The starvation of the enemy, cruel as it is, is in my opinion in itself no prohibited method of warfare. It must, therefore, be regarded as permitted to injure the economic life of the opponent. The enemy is not bound to have any consideration for the enemy."*<sup>2</sup>

Burckhardt again states in his aforesaid book (p. 22):

*"The limitation of the struggle to the purely military side has hovered before many a theorist as the ideal of the civilized war of the future: private property should be*

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<sup>1</sup> Cited by Nippold, Otfried, in his book *The Development of International Law after the World War*, p. 114-115, (London, 1923).

<sup>2</sup> *Ibid*, p. 122.

*secure on both land and sea, the private exchange of wares should continue even among the belligerents; war should be conducted only between the states by their armed land and sea forces, but not by the citizens of the hostile states. Today this ideal is perhaps without a single disciple, not because it is too far removed from harsh reality, but because it has been shown to be artificial, even unnatural. Not only is the commerce existing between adjacent or neighbouring states hard hit under all circumstances by military events, but it would, moreover, be highly contradictory if, from feelings of consideration, a state should have to spare the commerce of the enemy while it was mowing down his youth by thousands; if it should have to permit its subjects to send exports to the enemy while it bombards his ports and occupies his territory."*<sup>1</sup>

Another author, Eltzbacher, writes in his book *Totes und lebendes Völkerrecht* (p. 29):

*"As the military achievements of the adversary struck deeper root into the collective strength of the people, it became increasingly important to break this strength by all the means at disposal. Thus the war against a hostile army had to become a war against a whole hostile people. If, however, the waging of war once took this step, international law had to follow. The previously accepted principle that war may be conducted only against the enemy's armed forces, and that the civil population may only in a few definitely defined cases be subjected to the hardships of war, was, therefore, antiquated. The present war has cast this principle aside. It has been violated not only in individual cases, but it has forever and completely collapsed. It will no more be observed in future wars. The break with the past is irrevocable."*<sup>2</sup>

From these lengthy excerpts it is evident that to regard the civilians as non-combatants in war, to allow them to take part freely in commercial activities by protecting them

<sup>1</sup> Cited by Nippold, Otfried, in his book *The Development of International Law after the World War*, p. 133, (London, 1923).

<sup>2</sup> Ibid, p. 133-134.

from hostilities, and allow them to benefit from those leniencies which are specified for non-combatants are not only impractical but also fundamentally wrong. No doubt targeting particularly the civilians during the war and destroying their economic life as if they are also part of the objectives of war is wrong, but so also it is wrong to give the rights of non-combatants to all those groups of people who participate in the war efforts and strengthen the military power as much as the military establishment does.

On this account, the line of distinction that the Western law has drawn between the combatants and non-combatants is in no way very straight. On the one hand, it denies the rights of non-combatants to many of those strata of the society who are entitled to them, and on the other hand gives all such rights of non-combatants to those who are actually not entitled to them. Between this excess and deficiency, Islam has drawn a straight line which does not divide the combatants and non-combatants according to their occupations; rather it does it according to their capability to wage war. Islam has divided a belligerent nation on the basis of "fighting." Those who practically take part in the fighting, or those who by custom and nature are capable of fighting are all considered as combatants; those who by nature and custom are not capable of taking part in fighting, such as women, children, the aged, the sick, the disabled, the indigent, etc. are considered as non-combatants. Every individual of an enemy nation who comes forward to wage war against the Muslims, irrespective of being part of a formal army or not, is considered a combatant in all respects and is given all the rights which a combatant is entitled to, except that he should not be a habitual perpetrator of treason and betrayal. Similarly, every person who is capable of waging war will be considered a combatant and he should suffer all those hardships, not compulsorily, but under the contingencies of war. Of course, it is imperative that if he asks for quarter

he is given quarter; if he wants to engage in peaceful commercial activities between a belligerent State and the Islamic State he can be granted permission to do so keeping in view the exigencies of war; if he wishes to engage in his commercial activities keeping away from actively engaging in the activities of war, he can be granted quarter as a non-combatant. But according to the classification he will be counted among the combatants, and he will be given the rights of non-combatants only on a temporary basis. This is the only natural way of drawing distinction between combatants and non-combatants, and between the aforesaid extremities set out by the Western law this is the only moderate point where it is possible for the militarists and the jurists to conjoin.

### **3. The Rights and Duties of the Combatants**

The two largest kinds of belligerents, i.e. the Combatants and the Non-Combatants are governed by different laws according to their rights and duties. Therefore, we are going to discuss them separately. Out of the two, according to categorization, the Combatants have precedence over the Non-Combatants.

As has been mentioned above, the perception about the rights of the combatants took birth in Europe only at the end of the 19th Century. Although theoretical discussions had commenced long before it and with the progress of collective perception some rights had been accepted and adopted in the practical world, but it took a long time thereafter for the era of adoption and acceptance of complete code of rights to commence. Till 1829 the States were not willing to accept any specified law in this regard, and they thought that they had the full authority to decide to whom they should give the rights of combatants and to whom they should not. But a fixed code of rights and duties of combatants cannot be evolved if every nation assumes itself the authority of judging their own actions; practically

such an attitude would result in the extinction of the rights and duties of the Combatants altogether. Hence, the Western world realized this difficulty and gradually accepted the principle that all Combatants would be given the rights of belligerency under all circumstances and that the decision in this regard would not be left to the discretion of parties concerned. Hence, at the outset, a general rule was formulated at the International Military Commission held at St. Petersburg and the following Declaration was adopted on November 29, 1868:

*"Considering that the progress of civilization should have the effect of alleviating as much as possible the calamities of war:*

- That the only legitimate object which States should endeavour to accomplish during war is to weaken the military forces of the enemy;
- That for this purpose it is sufficient to disable the greatest possible number of men;
- That this object would be exceeded by the employment of arms which uselessly aggravate the sufferings of disabled men, or render their death inevitable;
- That the employment of such arms would, therefore, be contrary to the laws of humanity.

The Contracting Parties engage mutually to renounce, in case of war among themselves, the employment by their military or naval troops of any projectile of a weight below 400 grams, which is either explosive or charged with fulminating or inflammable substances."

This was the primary regulation which had been formulated in 1868. A few years thereafter, in the Brussels Conference a few more rights and duties were tried to be formulated. However, by the end of the 19th Century, no law could be formulated in this regard which was acceptable to all the Western powers. At the end of the 19th



Century when the first Hague Conference was held it formulated the following comprehensive principle under Article 22 of the Annex to the Hague Convention II (Laws and Customs of War on Land), adopted on July 29, 1899:

*"The right of belligerents to adopt means of injuring the enemy is not unlimited."*

Along with this, it also stipulated the duties and rights of the combatants which are described under Article 23 of the Annex to the Hague Convention II as under:

*"Besides the prohibitions provided by special Conventions, it is especially prohibited:*

- To employ poison or poisoned arms;
- To kill or wound treacherously individuals belonging to the hostile nation or army;
- To kill or wound an enemy who, having laid down arms, or having no longer means of defence, has surrendered at discretion;
- To declare that no quarter will be given;
- To employ arms, projectiles, or material of a nature to cause superfluous injury;
- To make improper use of a flag of truce, the national flag, or military ensigns and the enemy's uniform, as well as the distinctive badges of the Geneva Convention;
- To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war.

From the above brief description, we have understood when and how the rights and duties of the combatants were stipulated. Now, we will describe separately each of the distinctive rights and duties of the combatants.

**(i) Compliance with the Regulations of War:** The greatest duty of the combatants which the States very much insist upon is that they should comply with the military regimen and the regulations of war. The States have refused to acknowledge the military rights of those combatants who

wage war in an irregular manner and are not part of the regular armed forces. Under the German law the minimum punishment for them is imprisonment for 10 years and maximum is death. Under the American law, the punishment prescribed for them is the same that is given to the robbers and the pirates. Leave alone the rights of combatants, these people have been denied the basic human rights. Hence, in the Hague Conference of 1899, Britain vehemently insisted that use of Dum-Dum bullets should be permitted against the uncivilized and barbaric nations. Lord Lansdowne, who represented Britain in the Conference, speaking in the Conference very vehemently said that in the 1895 war of Chitral ordinary bullets proved to be inefficient in stopping the barbaric enemy crowd and that the Dum-Dum bullets did not hurt them much.<sup>1</sup> These are the very same Dum-Dum bullets just mention of which is enough to run a shiver down the spine of a European, and no European State wants to use them against the "civilized" nations. However, its use against the "savage" nations is considered so essential and permissible, that the "most civilized nation" of the time refuses to ratify and sign the aforesaid Declaration of the Hague Conference, and she signs it only when its application is confined to the wars between the Contracting Powers of the Conference.

(ii) *Grant of Quarter*: The first and the basic right of Combatants is that when they seek quarter from their enemy, it should be granted to them. Till the 17th Century there was no system in Europe of granting quarter. In the British Civil War, the British Parliament refused to grant any quarter to the Irish people. Till the end of 18th Century, the Combatants had the right to refuse quarter to one another. Hence, in 1794, the French Convention had declared that quarter would not be granted to the English

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<sup>1</sup> Birkenhead, Fredric Edwin Smith, *International Law* (revised and enlarged by J. Wylie), p. 139, (Boston/London, 1911)

soldiers. However, in the 19th Century this right of the Combatants was recognized and it was agreed that when the Combatants seek quarter, they should not be harmed in any way whatsoever and that they should be granted the rights of prisoners of war.

But this law was meant for only those people who seek quarter from the enemy in the battle field.<sup>1</sup> As far as the combatants who are in the custody of the enemy at the commencement of the hostilities, no set regulation is available till now. Till the 18th Century, the general rule was that such persons were to be arrested as common criminals and were to be kept in prison till the end of the war. In 1756, for the first time Britain granted a concession to France; she granted quarter, at the commencement of war, to all the French nationals who were living within her borders on the condition that they would honestly remain neutral during the conflict. Similarly, a treaty known as the Jay Treaty was signed between England and the United States of America on November 19, 1794, wherein, among other things, it was agreed by both the parties that they would grant quarter to the inhabitants of one another in the event of any hostilities arising between them. However, after the breakdown of the 1802 Peace Treaty of Amiens (which had been negotiated and signed by Great Britain and France) in 1803, both the countries resorted to the previous system; before the declaration of war and without any warning the Royal Navy of Great Britain captured all the French and Dutch merchant ships anchored in British ports or sailing around, and imprisoned all their crews, and in retaliation France also ordered arrest and imprisonment of all the British nationals living in France and Italy. In the 19th Century yet another method, which is of expulsion,

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<sup>1</sup> The current law has made a distinction between seeking quarter in the battlefield and seeking it during the course of hostilities. But in accordance with the Islamic terminology I consider it more pertinent to describe them together.

was also being adopted. All these three methods were being followed at different points of time. In the Crimean War (October 1853-February 1856), in the Greco-Turkish War of 1897, and in the Spanish-American War of 1898, the opposing parties granted quarter to the nationals of each other. But in the Franco-German war of 1870, although initially both the countries allowed their nationals to reside in each other territories, later on all the Germans were expelled from French territories under exceptional circumstances. In the Boer War of 1899, the two independent Boer republics of Southern Africa, the Orange Free State and the Transvaal Republic, expelled almost all the British subjects from their territories.

Thereafter, even in the beginning of the 20th Century no concrete regulation could be formulated in this regard. In the Russo-Japanese War of 1904 and in the Italo-Turkish War of 1911 (for a short period of time) the opposing parties abided with the system of granting quarter when sought for. But in the First World War, Great Britain, France and Italy ordered all the enemy nationals to get out of their territories within a stipulated period of time, and those who were not able to do so were kept under strictest surveillance. Germany and Austria had confined all the foreign nationals except those who were under-age for military service. Portugal expelled all the under-aged foreign nationals and confined those who had attained the age of military service. America and Japan had granted quarter to all the foreign nationals.

As stated above, till now [i.e. till 1930s] no law has been formulated in this regard. But the general inclination of the international law today is that persons who are under-age for military service may be allowed to leave the territories of the enemy state and those who are fit for military services are confined till the end of the hostilities. As against this, nearly 1400 years ago Islam has promulgated the law that if an individual from the

belligerent-State wishes to visit or live in the Islamic State after obtaining required quarter, he should be granted quarter, and if he wants to go back to his "place of safety," he should be safely escorted out. Besides, the Western International Law has not even reached the basics of the wide-ranging rights that Islam has given to a belligerent-protectee.<sup>1</sup>

(iii) *Prisoners of War*: The laws of Europe about the prisoners of war are very comprehensive. But according to Professor Morgan, the real reason for its comprehensiveness is that the interest of all the States in it is common. Since every State wants to ensure safety and comfort of its soldiers and officers when they are held as prisoners of war, as a measure of reciprocity it also agrees to look after well the enemy soldiers and officers in its custody.<sup>2</sup>

However, these civilized laws are the creations of very near past. Till the 17th Century, Europe used to enslave all the prisoners of war. Grotius raised his voice against this system and suggested to the Christian nations to release the prisoners of war on payment of ransom instead of enslaving and trading them. But this recommendation went unheeded for nearly a century. Only in the beginning of the 18th Century that the system of payment of ransom and exchange of prisoners of war was adopted, and till the end of the century all the States acted upon it. In 1870 England and France entered into a treaty concerning exchange and ransom of prisoners of war, in which the ransom rates fixed were one pound for each soldier and 60 pounds or 60 soldiers for each Field Marshal or Admiral. In the 19<sup>th</sup> Century, Europe gave up the system of ransom and retained only the system of exchange of prisoners of war. However, in the peak of "civilization," killing of prisoners of war did not end. Hence, in 1799, the greatest General of the

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<sup>1</sup> For details refer to Chapter V, sub-section "Truce and Security" of this book.

<sup>2</sup> Baty, Thomas & Morgan, John Hartman; *War: Its Conduct and Legal Results*, p. 196, (New York, 1915).

“civilized” Europe, Napoleon Bonaparte, killed 4000 Turkish soldiers, who had surrendered on the promise of sparing their lives, on the pretext that he could neither feed them nor send them back to Egypt.

Nearly a century thereafter, the Western world again committed a similar crime. In 1896, the Spanish General Valeriano Weyler had killed the prisoners of war in Cuba declaring them as rebels, and had imprisoned thousands of civilians who had died of starvation like insects.<sup>1</sup>

Anyhow, it is a fact that formal rules regarding prisoners of war were formulated in the Brussels Conference of 1874. These were ratified in the Hague Conference of 1899, and the Second Hague Conference of 1907 after giving them a final shape, made them part of the International Law. We find these rules in the Annex to the Hague Convention IV (Respecting the Laws and Customs of War on Land), which are as follows:

**Article 4:** Prisoners of war are in the power of the hostile Government, but not of the individuals or corps who capture them. They must be humanely treated. All their personal belongings, except arms, horses, and military papers, remain their property.

**Article 5:** Prisoners of war may be interned in a town, fortress, camp, or other place, and bound not to go beyond certain fixed limits, but they cannot be confined except as in indispensable measure of safety and only while the

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<sup>1</sup> [Translator's Footnote]: During the Cuban War of Independence, when the rebels began to gain success after success in their guerilla campaigns against the Spanish troops, the Spanish General Valeriano Weyler came to the conclusion that to defeat the rebels he would have to separate them from the civilians. Hence on October 21, 1896, he ordered all the inhabitants of the countryside and their livestock to be gathered in "reconstruction camps" guarded by loyal Spanish troops. By the end of 1897, although General Weyler was successful in relocating more than 300,000 people in such camps, he was unable to provide for them adequately. Consequently, people had to live in over-crowded camps which became cesspools of hunger, disease and starvation where thousands died. It is estimated that this measure caused the death of at least one-third of Cuba's rural population.

circumstances which necessitate the measure continue to exist.

**Article 6:** The State may utilize the labour of prisoners of war according to their rank and aptitude, officers excepted. The tasks shall not be excessive and shall have no connection with the operations of the war. Prisoners may be authorized to work for the public service, for private persons, or on their own account. Work done for the State is paid for at the rates in force for work of a similar kind done by soldiers of the national army, or, if there are none in force, at a rate according to the work executed. When the work is for other branches of the public service or for private persons the conditions are settled in agreement with the military authorities. The wages of the prisoners shall go towards improving their position, and the balance shall be paid them on their release, after deducting the cost of their maintenance.

**Article 7:** The Government into whose hands prisoners of war have fallen is charged with their maintenance. In the absence of a special agreement between the belligerents, prisoners of war shall be treated as regards board, lodging, and clothing on the same footing as the troops of the Government who captured them.

**Article 8:** Prisoners of war shall be subject to the laws, regulations, and orders in force in the army of the State in whose power they are. Any act of insubordination justifies the adoption towards them of such measures of severity as may be considered necessary. Escaped prisoners who are retaken before being able to rejoin their own army or before leaving the territory occupied by the army which captured them are liable to disciplinary punishment. Prisoners who, after succeeding in escaping, are again taken prisoners, are not liable to any punishment on account of the previous flight.

**Article 9:** Every prisoner of war is bound to give, if he is questioned on the subject, his true name and rank, and

if he infringes this rule, he is liable to have the advantages given to prisoners of his class curtailed.

**Article 10:** Prisoners of war may be set at liberty on parole if the laws of their country allow, and, in such cases, they are bound, on their personal honour, scrupulously to fulfil, both towards their own Government and the Government by whom they were made prisoners, the engagements they have contracted. In such cases their own Government is bound neither to require of nor accept from them any service incompatible with the parole given.

**Article 11:** A prisoner of war cannot be compelled to accept his liberty on parole; similarly the hostile Government is not obliged to accede to the request of the prisoner to be set at liberty on parole.

**Article 12:** Prisoners of war liberated on parole and recaptured bearing arms against the Government to whom they had pledged their honour, or against the allies of that Government, forfeit their right to be treated as prisoners of war, and can be brought before the courts.

**Article 13:** Individuals who follow an army without directly belonging to it, such as newspaper correspondents and reporters, sutlers and contractors, who fall into the enemy's hands and whom the latter thinks expedient to detain, are entitled to be treated as prisoners of war, provided they are in possession of a certificate from the military authorities of the army which they were accompanying.

**Article 14:** An inquiry office for prisoners of war is instituted on the commencement of hostilities in each of the belligerent States, and, when necessary, in neutral countries which have received belligerents in their territory. It is the function of this office to reply to all inquiries about the prisoners. It receives from the various services concerned full information respecting internments and transfers, releases on parole, exchanges, escapes, admissions into hospital, deaths, as well as other information necessary to



enable it to make out and keep up-to-date an individual return for each prisoner of war. The office must state in this return the regimental number, name and surname, age, place of origin, rank, unit, wounds, date and place of capture, internment, wounding, and death, as well as any observations of a special character. The individual return shall be sent to the Government of the other belligerent after the conclusion of peace.

It is likewise the function of the inquiry office to receive and collect all objects of personal use, valuables, letters, etc., found on the field of battle or left by prisoners who have been released on parole, or exchanged, or who have escaped, or died in hospitals or ambulances, and to forward them to those concerned.

**Article 15:** Relief societies for prisoners of war, which are properly constituted in accordance with the laws of their country and with the object of serving as the channel for charitable effort shall receive from the belligerents, for themselves and their duly accredited agents every facility for the efficient performance of their humane task within the bounds imposed by military necessities and administrative regulations. Agents of these societies may be admitted to the places of internment for the purpose of distributing relief, as also to the halting places of repatriated prisoners, if furnished with a personal permit by the military authorities, and on giving an undertaking in writing to comply with all measures of order and police which the latter may issue.

**Article 16:** Inquiry offices enjoy the privilege of free postage. Letters, money orders, and valuables, as well as parcels by post, intended for prisoners of war, or dispatched by them, shall be exempt from all postal duties in the countries of origin and destination, as well as in the countries they pass through. Presents and relief in kind for prisoners of war shall be admitted free of all import or

other duties, as well as of payments for carriage by the State railways.

**Article 17:** Officers taken prisoners shall receive the same rate of pay as of officers of corresponding rank in the country where they are detained, the amount to be ultimately refunded by their own Government.

**Article 18:** Prisoners of war shall enjoy complete liberty in the exercise of their religion, including attendance at the services of whatever church they may belong to, on the sole condition that they comply with the measures of order and police issued by the military authorities.

**Article 19:** The wills of prisoners of war are received or drawn up in the same way as for soldiers of the national army. The same rules shall be observed regarding death certificates as well as for the burial of prisoners of war, due regard being paid to their grade and rank.

**Article 20:** After the conclusion of peace, the repatriation of prisoners of war shall be carried out as quickly as possible.<sup>1</sup>

If these rules, leaving aside the details, are compared with the Islamic rules in this regard on the basis of principles, they have not made any significant improvement on the Islamic rules.<sup>2</sup> The Western rules, at the most, want to provide such comforts and facilities to the prisoners of war which a government provides to its own soldiers and officers. But the tradition of Prophet Muhammad (peace be upon him) and his Companions (may Allah be pleased with them) was that they used to feed the prisoners of war better food and clothe them with better cloths than what they themselves used to eat and wear, although Muslim prisoners of war, leave aside getting any food and clothing, were all the time ill-treated and tortured by the enemy. The

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<sup>1</sup> These rules apply to the combatants belonging to a regular army. However, it is not clear whether these rules also apply to the interned non-combatants.

<sup>2</sup> For a comparison see Chapter V of this book under sub-section "Prisoners of War."

Western States collect the money spend on the upkeep of the prisoners of wars from the enemy States. But Islam expended money on the prisoners of war when there was no possibility at all of entering into any agreement with the enemy States on this account. Western States are inclined to release the prisoners of war only on the basis of exchange, but Islam, most of the time, has released such prisoners without any kind of exchange, and it considers nobler release of prisoners by way of benevolence.

However, a few rules are an addition to the Islamic rules. But, while forming an opinion about them, this fact should not be ignored that each State has agreed to provide these amenities to the soldiers of the other State on the specific understanding that such amenities would also be extended to its own soldiers. As against this, Islam had provided such amenities to the prisoners of war when it had no expectation of getting any kind of amenities from its enemies to its prisoners of war. Islam had shown benevolence to the prisoners taken during the Battle of Badr when scores of Muslims held by the Quraish of Makkah as prisoners were used to be tortured by laying them on the hot sands of Arabia. Unlike today, it was not possible then to enter into an agreement or treaty, and hence Islam has given to the prisoners of war as many amenities as was possible under the then prevailing circumstances. But now that it is possible to enter into an agreement or treaty regarding this issue, Islam will not refuse to make additions to its existing laws. Islam permits Muslims to enter into every such treaty in which amenities are guaranteed on the basis of equality.

*(iv) The Wounded, the Sick and the Dead:* There were no specific arrangements in Europe to look after the sick and the wounded soldiers during the war. It was probably in the 17<sup>th</sup> Century that arrangements were made to establish military hospitals and appoint doctors and surgeons to attend to the sick and wounded in the battle-

fields. But the perception to care for the wounded and the sick enemy soldiers and extend protection to the enemy hospitals and medical personnel was non-existent till the 19<sup>th</sup> Century. The wounded and the sick of the enemy were sometimes killed and quite often were left unattended in wretched conditions to die in the battle-field. Hospitals were not excluded from military attack. The doctors and other medical personnel, when captured, were considered prisoners of war and were confined along with the military personnel. Till the middle of the 19<sup>th</sup> Century there were differences between the experts of International Law whether to consider doctors and other medical workers as prisoners of war.<sup>1</sup> During the American Civil War, the United States declared lawful, when required, to arrest the enemy doctors and force them to work. Anyhow, till 1864 Europe was unaware of any civilized laws and regulations pertaining to the wounded, the sick, the medical personnel, and other victims of armed conflicts. Europe became aware of this issue when Henry Dunant, a Swiss national and a humanist, raised his voice to express his anguish over the barbaric attitude of the "civilized" nations of Europe on this account. In June 1859, a terrific war was fought between Austria and the united forces of France and Sardinia, at Solferino (in modern-day Italy), in which apart from other barbaric actions, the wounded soldiers were treated so mercilessly that it shook the human sensibilities of the entire Europe. Henry Dunant personally witnessed the aftermath of the Battle of Solferino and was horrified to see nearly 23,000 wounded, dying and dead soldiers lying helpless and abandoned in the battlefield with no one to care for them. With the help of the local population, particularly the women and the girls, he himself took the initiative and provided necessary care and assistance to the

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<sup>1</sup> Lawrence, Thomas Joseph; *The Principles of International Law*, p. 348 (Boston, USA, 1908).

injured and the sick soldiers without giving any regard to their side in the conflict. After returning to Geneva, Switzerland, he wrote and published a book titled *Un Souvenir de Solferino (A Memory of Solferino)* in 1862, which greatly helped in moulding the public opinion to adopt remedial measures in this behalf. He suggested formation of voluntary relief societies who could be trained in peacetime to take care of the sick and the wounded soldiers during war. He also called for an international agreement to be drawn up to protect the wounded and those who take care of them from further attacks.

In response to this, in 1864, the Swiss Government invited the governments of all the European and American States to attend a diplomatic conference in Geneva. Sixteen States attended the conference which lasted from August 8-22, 1864. A treaty was negotiated and signed on August 22, 1864, by all the States except the USA, agreeing that each of the signatories would take care of all the sick and wounded military personnel regardless of nationality. They also agreed to recognize the neutrality of medical personnel, hospitals and ambulances identified by the emblem of a red cross on a white background, so that they could be identified from a distance and are not made the targets of military operations. It was also obligated on every belligerent that it should extend all necessary medical treatment to the wounded enemy soldiers as it would extend to its own wounded soldiers, and that after their recovery either they should be sent back to the country of their origin on the promise of not again bearing arms during the continuance of the war, or they should be detained as prisoners of war. This is known as the *First Geneva Convention (for the Amelioration of the Wounded and Sick in Armed Forces and Field)* and it was concerned only with the sick and wounded soldiers in the battlefields.

This Convention was defective in many aspects, and the greatest defect in it was that no recommendation was

made to declare the contravention of the Convention a punishable offence. In order to remove any defects, clarify some provisions of the First Geneva Convention of 1864 and extend application of this Convention to the sick and wounded of the maritime warfare too, a second diplomatic conference was held in Geneva in October 1868. This Conference drafted 14 additional articles which were to be added to the original Convention of 1864; five articles were related to war on land and nine to maritime warfare. However, these additional articles were not ratified by the participating States and hence remained inoperative. Therefore, the Second Geneva Conference was a failure.

The matter was again taken up by the 1874 Brussels Conference. But its recommendations too met with the same fate as of those of the Second Geneva Conference. Twenty-five years after the Brussels Conference, the 1899 Hague Conference felt that there was need for a comprehensive law concerning the wounded and the sick. Hence, it recommended the Government of Switzerland to convene a third Geneva Conference to achieve this objective.

In deference to the above wish, the Swiss Government extended invitations to all the Western States successively in 1901, 1903 and 1904 to attend a Special Conference, but did not receive any encouraging response from any of the States. Eventually, in July 1906 the said Special Conference was held in Geneva from June 11 to July 6, 1906, "with a view to revising the international Convention of August 22, 1864 for the amelioration of the condition of soldiers wounded in armies in the field." It was attended by 35 States. The revised Convention adopted in this Special Conference was more detailed and more precise in its terminology than the Convention of 1864. Twenty-seven States ratified the Convention and eight States declared their adhesion to it. Thus the Geneva Convention of 1906

superseded the Geneva Convention of 1864 and is now followed by the Western States.

In the Hague Conference of 1907, not only the aforesaid Geneva Conventions pertaining to the sick and wounded of the war on land were adopted, but the Convention III of the 1899 Hague Conference concerning the maritime warfare was also revised and additional articles added to it under *Convention X for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention*. But out of the 44 participating States, 17 States, which included Britain, Italy, Greece, Bulgaria, Servia and others, although signed the Convention but did not ratify it, and hence it practically remained useless which resulted in sinking of hospital ships during the First World War with impunity.

The basic principle for all the aforesaid conventions is just one; that it is inhuman to mistreat and hurt further the enemy who has become invalid because of sickness or injury. All those regulations which have been formulated in the Geneva and the Hague Conventions concerning the sick, the wounded, the hospitals and the medical personnel working in them are derived from this principle. A major portion of these regulations is comprised of practical provisions, which, apparently, will keep changing with the changing situations and applications. Hence, the real and important thing here is the principle; but then this was discovered by the Western world recently, while Islam had established it more than fourteen hundred years ago. The difference is that the Western world decided to agree with this principle when all the Powers agreed to accept it, whereas Islam made it a part of its comprehensive Laws of War when the non-Muslim world was not ready to enter into any agreement in this behalf and when Muslim wounded soldiers were routinely killed on the battlefields without any qualms. In such a situation, Islam ordained its armed forces that they should show mercy, as a duty, to all

the wounded soldiers and to all those who have become invalid like the wounded soldiers.

(v) ***Use of Poisonous Substances:*** Since the invention of new deadly weapons and substances with the help of modern science, Europe is getting concerned with the issue and seriously contemplating that use of all such deadly weapons and substances should be prohibited. The conscience of the Europeans censures them when they read and notice the horrific effects of poisonous gases, exploding bullets, powerful bombs, and other substances on the human body, and the moralists and humanists among them, with the help of the public opinion, are trying to pressurise the politicians not to use such weapons and substances. But the militarists are unwilling to give up use of these things because they help in achieving the military objectives. A wrangling on this issue is going on between these two groups since a long time. The politicians and the statesmen have found a perfect cure for it; on the one hand they assuage the moralists and the humanists by convening international conferences and passing humane resolutions and conventions and on the other, they not only permit the militarists to use freely these weapons and substances but also allow them to invent even more deadly weapons and substances.

Out of these deadly weapons, use of some weapons, which appear to be more barbaric outwardly, has been discontinued by Europe since a long time; use of poison-coated weapons had been discarded probably since the 18<sup>th</sup> Century; filling the canon with knife-blades, pieces of glass and such other things and firing them has been banned since the 19<sup>th</sup> Century. However, those weapons which are, essentially, deadlier and more barbaric than the above are continuously being used and the "most civilized" States of Europe are more insistent on their use. It was agreed, as a principle, by all the States, first in the 1868 St. Petersburg Declaration and then in the Hague Conferences of 1899 and



1907, that such weapons and substances which unnecessarily aggravate the sufferings of the enemy soldiers without contributing much to the achievement of the military objectives should not be used. Hence, according to this principle the participating States agreed to prohibit:

1. Employment by the military or naval troops of any projectile of a weight below 400 grams, which is either explosive or charged with fulminating or inflammable substances.
2. Use of bullets which expand or flatten easily in the human body, such as bullets with a hard envelop which does not entirely cover the core or is pierced with incisions.
3. Use of projectiles the sole object of which is the diffusion of asphyxiating or deleterious gases.
4. Discharge of projectiles and explosives from balloons or by other new methods of a similar nature.

Although the above declarations were ratified by all the participating States, later on almost all the States contravened them inasmuch as that during the First World War they jointly torn them asunder by their actions. As regards the declaration regarding expanding bullets, there is difference of opinion amongst military experts concerning its definition itself; there is no meaning in banning the name when its definition is not clear. As regards the declaration concerning use of fulminating and inflammable substances; it is just a beautiful and ornamental writing on a piece of paper and it has no existence in the practical world. The way in which these substances were freely and extensively used during the First World War, no one dare to remind about the Declaration of the St. Petersburg

Conference and the Conventions of the Hague Conferences and make a mockery of himself.<sup>1</sup>

The Islamic Law has not described any kind of specifications in this behalf. The reason is that prohibiting a particular kind of weapon or armament depends upon the agreement between the belligerents. If a belligerent uses a particular kind of deadly weapon or substance, it is impossible for the opposing belligerent not to use similar weapon or substance. If a belligerent uses a deadly weapon, it becomes difficult for the opposing belligerent not to use similar weapon, and to impose such restrictions on him would be declaration of his defeat in advance. Therefore, Islam has permitted the Muslims to use all such weapons and adopt all such modes of war that are current in their era. However, it has also given the liberty to Muslims to enter into mutual agreement with non-Muslim States banning a particular weapon or mode of war keeping in view the expediencies of time.

(vi) *Spies*: No law gives protection to spies. Like other laws, Western laws too do not give any legal protection to spies. Article 30 of the Hague Convention IV respecting the Laws and Customs of War on Land gives only one concession to a spy and that is: "A spy taken in the act shall not be punished without previous trial." It is further elaborated under Article 31 that "a spy who, after rejoining the army to which he belongs, is subsequently captured by the enemy, is treated as a prisoner of war, and incurs no responsibility for his previous acts of espionage." Apart from these two concessions, the Hague Conventions give full liberty to the military authorities to award any punishment of their liking to the spies.

The Islamic Law is not different from the Western Law in this aspect. Both laws consider only that person a spy

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<sup>1</sup> This has reached to such a level that in the Second World War, the most horrific and destructive weapon ever imagined, the atom bomb, was used.

who clandestinely obtains secret information after entering the enemy territories. They do not consider that person a spy who openly tries to gather information about the enemy. However, the Islamic Law has not given those concessions to a spy that the Western Law gives to him, because these concessions, in reality, are the concessions that the States give to the spies of each other based on mutual agreements and treaties. Since every State employs the services of spies and no State wants to leave such courageous persons at the mercy of the enemy, the spies are usually given some concessions with mutual agreement. If such concessions are shown to the spies of an Islamic State too, Islam is not averse reciprocate such concessions to belligerent's spies.

**(vii) Ruses and Perfidy in War:** Ruses in war are permissible, but perfidy is not. Frederick the Great in his *General Principles of War* says:

*"One makes use in war of the skin of the lion or the fox indifferently. Cunning often succeeds where force would fail; it is therefore absolutely necessary to make use of both; sometimes force can be countered by force, while on the other hand force has to yield to cunning."*<sup>1</sup>

Ruses include laying of ambushes; surprise attacks on the enemy; feigning attacks, retreats or flights to confuse the enemy; simulating quiet and inactivity; transmitting bogus signal messages to confound the enemy; spreading false news as to one's strength and dispositions, etc. It is the responsibility of every belligerent to be vigilant about the ruses of war and never to become their victim.

On the other hand, offering safe-conduct, or a free retirement, or of an armistice and then breaching it in order to take the enemy by surprise; feigning surrender and killing the enemy when it approaches unsuspectingly; using

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<sup>1</sup> As quoted in *The War Book of the German General Staff* (a translation of the booklet *Kriegsbrauch im Landkriege* by Morgan, J. H.), in the footnote to p. 111, (New York, 1915).

the flag of truce or of the Red Cross or Red Crescent or Red Lion to secure one's approach; hoisting or using insignia and hoisting flags of Red Cross and other similar organizations on military barracks and installations and magazines; firing and shelling from behind the human wall made up of women and children; and other such acts come under perfidy and against the spirit of chivalry, and therefore are considered unlawful. However, there are certain issues regarding which it has not yet been decided whether they are to be considered under perfidy or ruse. For example, use of enemy's or neutral flags and uniforms has been declared lawful by the scholars of the International Law, while the militarists have declared it unlawful. Under the German law, it is an unlawful method of warfare, and the American law of war declares it such a perfidy which renders the enemy bereft of any concessions.<sup>1</sup> Hence, in reality, laws cannot be framed which can encompass all the details pertaining to ruses and perfidy. This issue pertains to the martial ethics, and the individual sense of chivalry of each nation decides for itself which acts of war are against chivalry and gallantry and which are not. Therefore, the Hague Conventions have not given any details about ruses of war; under Article 24, it just says: "Ruses of war and the employment of measures necessary for obtaining information about the enemy and the country are considered permissible."

On this issue too the Islamic Law agrees with the Western Law. It has also, in principle, permitted employment of ruses during war, but has left the details to the jurists of the time so that they can decide, under the

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<sup>1</sup> Article 65 of the Lieber Code.

The Article reads: "The use of the enemy's national standard, flag, or other emblem of nationality, for the purpose of deceiving the enemy in battle, is an act of perfidy by which they lose all claim to the protection of the laws of war." [Translator]

existing situation, which comes under the ruses of war and which does not.

(viii) *Reprisals*: Neither the Hague Conventions nor the laws which were in existence prior to them and formulated after them furnish any details about reprisals. No Western law tells us whether reprisals are lawful or unlawful, and if lawful to what extent they are allowed. Most probably this issue was purposely not taken up in the Hague Conferences because the militarists wanted to have their sway over this issue. Individually, some experts of International Law have tried to fix some restrictions in this regard. Particularly, the restrictions enunciated by Prof. Holland are very popular with the jurists. Prof. Holland says that:

"Reprisals must be exercised only subject to the following restrictions:

1. The offence in question must have been carefully inquired into.
2. Redress for the wrong, or punishment of the real offender, must be unattainable.
3. The reprisals must be authorized, unless under very special circumstances, by the Commander-in-Chief.
4. They must not be disproportioned to the offence, and must in no case be of a barbarous character."<sup>1</sup>

But these are all personal views and opinions of the jurists which the militarists have never accepted. The practice of the international community during both the World Wars shows that excesses committed by a party against the other party make similar excesses lawful to the other. For example, it is unlawful to torture the prisoners of war, to bombard the undefended populated areas, to sink merchant ships, and to use poisonous gases and exploding bullets. But during the World Wars, every belligerent

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<sup>1</sup> Holland, Thomas Erskine, *The Laws of War on Land*, p. 61, (Oxford, 1908).

committed these unlawful acts on the pretext that the opposing belligerent was committing them.

The Islamic Law on this issue is very clear. It says:

وَجَزَاءُ سَيِّئَةٍ سَيِّئَةٌ مِثْلُهَا مَنْ عَفَا وَأَصْلَحَ فَأَجْرُهُ عَلَى اللَّهِ إِنَّهُ لَا يُحِبُّ  
الظَّالِمِينَ ﴿٤٠﴾ (البقرة: 40)

*The recompense for an injury is an injury equal thereto (in degree); but if a person forgives and makes reconciliation, his reward is due from Allah; for (Allah) loves not those who do wrong.* (The Quran, 42:40)

وَإِنْ عَاقَبْتُمْ فَعَاقِبُوا بِمِثْلِ مَا عُوقِبْتُمْ بِهِ وَلَئِنْ صَبَرْتُمْ لَهُوَ خَيْرٌ لِلظَّالِمِينَ ﴿١٢٦﴾

(النمل: 126)

*And if you punish, let your punishment be proportionate to the wrong that has been done to you; but if you show patience, that is indeed the best (course) for those who are patient.* (The Quran, 16:126)

الْقَهْرُ الْحَرَامُ بِالشُّهْرِ الْحَرَامِ وَالْحُرُمَتِ قِصَاصٌ مَنِ اعْتَدَى عَلَيْكُمْ  
فَاعْتَدُوا عَلَيْهِ بِمِثْلِ مَا اعْتَدَى عَلَيْكُمْ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ مَعَ

الْمُتَّقِينَ ﴿١٩٤﴾ (البقرة: 194)

*If then, anyone transgresses against you, transgress you likewise against him. But fear Allah.* (The Quran, 2:194)

وَقَاتِلُوا فِي سَبِيلِ اللَّهِ الَّذِينَ يُقَاتِلُونَكُمْ وَلَا تَعْتَدُوا إِنَّ اللَّهَ لَا يُحِبُّ

الْمُعْتَدِينَ ﴿١٩٠﴾ (البقرة: 190)

*Fight in the cause of Allah those who fight you, but do not transgress limits; for Allah loves not transgressors.*

(The Quran, 2:190)

In the aforesaid Verses, first of all to show patience, forgiveness and making reconciliation has been declared better than taking revenge and when it becomes necessary to take revenge or take retaliatory actions it has been allowed on the condition that it should be proportionate to the act of aggression committed by the opposite party. Further, strict instructions have been given that while

taking retaliatory actions fear of Allah should always be in the forefront and the limits fixed by the Islamic Law should never be transgressed; that is, such actions should never be resorted to which by themselves are forbidden under Islamic Law. For example, if the enemy rapes and ravishes Muslim women after invading their territory or mutilates their dead, it is unlawful for the Muslims to rape and ravish their enemy's women and mutilate their dead. Or if the enemy massacres Muslim women, children, the aged, the wounded and the sick, the Muslims should not follow suit. However, if the enemy uses poisonous gases, powerful bombs and other similar destructive weapons against Muslims, Muslims have every right to use similar weaponry against their enemy.

#### **4. The Rights and Duties of the Non-Combatants**

We have discussed about the issues relating to the Combatants. Now we will pay attention to the laws pertaining to the Non-Combatants vis-à-vis the Combatants.

As has already been described, the awareness about the rights of Non-Combatants came to Europe very late. Theoretically, it began forming in the beginning of the 18<sup>th</sup> Century itself, but practically till the middle of the 19<sup>th</sup> Century there was no law of war which could give guidance to distinguish between the combatants and the non-combatants. It had brought back to memory the barbaric age of the past when France in Algeria, Britain in India during the "mutiny" of 1857, and the combined forces of Britain, Portugal and Spain during the Peninsular War had massacred the non-combatants mercilessly. Although from the time of Grotius, the jurists have been stressing on the determination of the rights of the non-combatants, a practical beginning could be made only in the 1874 Brussels Conference. The 1899 Hague Conference regulated them and the 1907 Hague Conference gave them

a final shape. Therefore, the Western law concerning the non-combatants has been conceived very recently.

This present-day law has determined the rights and duties of the non-combatants on a wider scale, and has keenly worked on its clauses and sub-clauses. However, because of the newer war strategies and principles being adopted by the West, it has become highly impossible to distinguish between the combatants and the non-combatants, and it will not be an exaggeration to say that war today has become more barbaric and horrific as far as non-combatants are concerned than it was during the barbaric days. The eminent European jurists are well aware of this fact. Hence, Birkenhead writes in his book *International Law*:

*"Unfortunately the manner in which the Great War was conducted has shown beyond doubt that the progressive doctrine of the distinction between armed forces and civilian population is in danger of disappearing."*<sup>1</sup>

The main cause for this is that the laws on which this distinction has been established are themselves have no base. Mr. Garner points out in his book *International Law and the World War*:

*"The Convention of 1907 in respect to the Laws and Customs of War on Land has not been ratified, however, by a number of States ... In accordance, therefore, with Article II, sometimes called the 'General Participation Clause,' which declares that the provisions of the Convention are not applicable except between the contracting parties and then only when all the belligerents are parties, it was not legally binding on any of the belligerents in the late War [i.e. the First World War]."*<sup>2</sup>

But its real causes are quite different, which Prof. Oppenheim has described in his scholarly book,

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<sup>1</sup> Birkenhead, Fredric Edwin Smith, *International Law*, (6<sup>th</sup> Edition), edited by Ronw, Moelwyn Hughes, p. 205, (London & Toronto, 1927).

<sup>2</sup> Garner, James Wilford, *International Law and the World War*, Vol. I, p. 18, (London, 1920).



*International Law: A Treatise* (Vol. II). According to his research, the vanishing of distinctions between combatants and non-combatants is hidden in the following four causes:

1. "The spread of conscription and the organized employment of a nation's manpower – of its men and women – to release able-bodied men for the fighting forces, to make munitions, and to maintain essential services.
2. "The employment of airships and aeroplanes for bombing not only troops and military fortifications, but also vital lines of communication and transport, factories and bridges outside the theater of war – a mode of violence which it would be vain to consider illegal, and which cannot but result, especially when conducted at night, in injury to the civil population."<sup>1</sup>
3. "The inability of democratic Governments to conduct war without the active support of the electorate they represent.
4. "The importance of the "economic front," of placing economic pressure on the enemy by crippling his industry, by interfering with the highly developed international communications on which commerce is so largely dependent, and thus bringing privation on his whole population."<sup>2</sup>

Hence, the reason for the rights of the non-combatants not being safeguarded during the war these days is not only that the Western laws of war are weak, but the real reason is that the way and the means with which the war is prosecuted now-a-days has made it impossible to make

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<sup>1</sup> In the Second World War the objective of air attacks was to destroy the economy and industrial infrastructure of the enemy. To achieve this purpose, harbours, industrial and economic centers were bombarded and most of the bigger cities were completely destroyed.

<sup>2</sup> Excerpted from Oppenheim's *International Law: a Treatise*, Vol. II, Para 57a, by Birkenhead, Fredric Edwin Smith, and quoted in his book *International Law*, (6<sup>th</sup> Edition, edited by Ronw, Moelwyn Hughe), p. 205-206, (London & Toronto, 1927).

distinction between combatants and non-combatants and safeguard the rights of the non-combatants.

However, in spite of these defects let us enumerate the rights and duties that the Western law bestows on the non-combatants and also analyze them as to their worth.

**(i) *The First Duty of the Non-Combatants:*** It is the first duty of the non-combatants which every belligerent enemy demands is that they should not take part in any kind of military operations. When the enemy appears before them, they have to take a decision whether they want to participate in the war or not. If they want to participate in the war, they should formally join the armed forces of their country; if they do not want to participate in the war, they should go about their business peacefully. Those amongst them who do not take either of the decisions and participate in the war informally, according to the Western Laws of War, are neither entitled to the rights of the combatants nor the rights of the non-combatants. That is, they will neither be shown any mercy, nor will they be given any quarter in any circumstance, nor will they be given the status of prisoners of war in the event of their capture.<sup>1</sup>

Although the Islamic Law is in agreement with the Western International Law that those non-combatants who take part in warfare will not be entitled for the rights of the non-combatants, but it does not agree that they should not be conferred with the rights of the combatants. Islam confers the rights of combatants on each person who takes part in war. But it does not give any allowance to them if they combine betrayal and perfidy with belligerency. For example, if a woman were to mix poison in the drinking water used by Muslims, she would certainly be executed, or if a person, after coming under the protection of Muslims

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<sup>1</sup> Lawrence, Thomas Joseph; *The Principles of International Law*, p. 345, (Boston, USA, 1908).

were to deceive and cause harm to them, he would not be shown any mercy. During the period of Prophet Muhammad (peace be upon him), persons belonging to the tribes of `Ukl and `Uraina, after obtaining the protection of the Prophet, killed his shepherds and ran away with his camels. Therefore, the Prophet deprived them of the rights of both the combatants and the non-combatants and after declaring them robbers, awarded them admonitory punishments.

It is also the duty of the non-combatants, when demanded by the invading army, to provide the services of guides to lead them from one place to another, and that such guides should lead them truthfully; if the invaders demand means of transportation, it should be provided. "Any resistance to the exercise of these rights may be severely punished, and a guide who wilfully misleads may be put to death."<sup>1</sup>

Both the Islamic and Western laws are in agreement on this issue.

**(ii) Protection of Non-Combatants:** Against the aforesaid duties, the basic right of the non-combatants is that they "are exempt from personal injury, except in so far as it may occur incidentally in the course of the lawful operations of warfare. If civilians travelling in a train containing soldiers are shot in an attack upon it by the enemy, or if women, children and unarmed men are killed in the course of a bombardment, or during the capture of a village situated upon a battle-field, a regrettable incident has taken place, but no violation of the laws of war has been committed. But had the guns of the besiegers been deliberately turned upon the dwelling-houses of the bombarded town, or had an open and undefended village been fired into, the persons responsible for such

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<sup>1</sup> Lawrence, Thomas Joseph; *The Principles of International Law*, p. 345, (Boston, USA, 1908).

proceedings would have been justly accused of barbarity forbidden by modern usage.”<sup>1</sup>

On this issue too, both the Islamic Law and the Western Law are in agreement. The Islamic Law has also prohibited attacking the non-combatants intentionally; as far as unintentional injury to the non-combatants during the course of military operations is concerned, it will not be called to account. Hence, during the siege of Tayif, when catapult and other fort-breaching equipment were used, it was apprehended that the stoning of the fortifications might harm the non-combatants in the fort. But Prophet Muhammad (peace be upon him) permitted it on the premise that the objective is to breach the fortification and not to target the non-combatants.

**(iii) Bombardment of Undefended Civilian Areas:** After agreeing to the right of protection of non-combatants, the question arises as to what extent this right should be taken into consideration during the military operations. We find immense difference of opinion on this issue between the jurists and the militarists, and now the opinion of the jurists is getting overwhelmed by the opinion of the militarists. In the hand-to-hand fighting between men or in the face-to-face fighting between two contending forces, it is possible to distinguish and protect the non-combatants. But what would be the manner of protecting the non-combatants from the perils of war when the enemy is bombarding a town from miles away and when the objective of the enemy, in particular, is to conquer the town? The jurists say that there should be some kind of restrictions on the right to bombard, but the militarists are of the opinion that there should be no restrictions. In the middle of the 19<sup>th</sup> Century a custom was formulated of allowing women and children to leave a besieged town

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<sup>1</sup> Ibid, p. 344.

before the commencement of a bombardment. During the siege of Strasburg in 1870 the Germans on two occasions allowed non-combatants to pass through their lines into a place of safety. But later on, the militarists unanimously decided that it is against military strategy to give such an allowance. Hence, a few months later, the German forces "declined to permit 'useless mouths' to depart from Paris before the bombardment commenced, because it was the intention of their commanders to reduce the city by famine rather than capture it by fighting."<sup>1</sup> Sometime after this incident, Admiral Aube, a French Naval Officer, published an article in the *Revue des Deux Mondes*, which gained instant popularity amongst the militarists. In the article he argued that the purpose of war is to inflict the greatest possible damage to the enemy, particularly by destroying its resources of wealth; he stated:

*"As wealth is the sinews of war, all that strikes at the wealth of the enemy – a fortiori all that strikes at the source of wealth – becomes not only legitimate but obligatory. It must therefore be expected that the fleets, mistresses of the sea, will turn their powers of attack and destruction, instead of letting the enemy escape from blows, against all the cities of the coast, fortified or not, peaceful or warlike, to burn them, to ruin them, and at least to ransom them without mercy. This was the former practice; it ceased; it will prevail again. Strasbourg and Peronne assure it."*<sup>2</sup>

*"Further, during the British naval maneuvers of 1888 the attacking fleet purported to bombard, and to levy contributions upon, various places along the coast; and though Professor Holland protested strongly in the Times, a considerable body of high naval authority took up the*

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<sup>1</sup> Lawrence, Thomas Joseph, *The Principles of International Law*, p. 344, (Boston, USA, 1908).

<sup>2</sup> *Revue des Deux Mondes*, 1882, p. 331.

*position that such a proceeding was perfectly justified, and a committee of admirals reported in its favour in 1889."*<sup>1</sup>

In the first Hague Conference of 1899, this issue was again taken up. At that time, the jurists had an upper hand in the Conference and the militarists because of the political considerations of the States maintained silence on the issue, and hence under Convention II Respecting the Laws and Customs of War on Land prohibitions were imposed on bombardment, and in the 1907 Conference these prohibitions were extended to the Naval warfare too. These restrictions are as follows:

**Article 25:** The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited.

**Article 26:** The officer in command of the attacking force must, before commencing a bombardment, except in cases of assault, to do all in his power to warn the authorities.

**Article 27:** In sieges and bombardments all necessary steps should be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not being used at the time for military purposes. It is the duty of the besieged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand.

Similarly under Convention IX Concerning Bombardment by Naval Forces in Time of War of the 1907 Hague Conference, the following prohibitions were imposed:

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<sup>1</sup> Birkenhead, Fredric Edwin Smith, *International Law* (revised and enlarged by J. Wylie), p. 134, (Boston/London, 1911).

**Article 1:** The bombardment by naval forces of undefended ports, towns, villages, dwellings, or buildings is forbidden.

A place cannot be bombarded solely because automatic submarine contact mines are anchored off the harbour.<sup>1</sup>

**Article 2:** Military works, military or naval establishments, depots of arms, or war material, workshops or plants which could be utilized for the needs of the hostile fleet or army, and ships of war in the harbour, are not, however, included in this prohibition. The commander of a naval force may destroy them with artillery, after a summons followed by a reasonable time of waiting, if all other means are impossible and when the local authorities have not themselves destroyed them within the time fixed.

He incurs no responsibility for any unavoidable damage which may be caused by a bombardment under such circumstances.

If for military reasons immediate action is necessary, and no delay can be allowed the enemy, it is understood that the prohibition to bombard the undefended town holds good, as in the case given in paragraph 1, and that the commander shall take all due measures in order that the town may suffer as little harm as possible.

**Article 3:** After due notice has been given, the bombardment of undefended ports, towns, villages, dwellings, or buildings may be commenced, if the local authorities, after formal summons has been made to them, decline to comply with the requisitions for provisions or supplies necessary for the immediate use of the naval force before the place in question.

These requisitions shall be in proportion to the resources of the place. They shall be only demanded in the name of the commander of the said naval force, and they

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<sup>1</sup> France, Germany, Great Britain and Japan had reservations about this paragraph.

shall, as far as possible, be paid for in cash; if not they shall be evidenced by receipts.

**Article 4:** Undefended ports, towns, villages, dwellings, or buildings may not be bombarded on account of failure to pay money contributions.

**Article 5:** In bombardments by naval forces all the necessary measures must be taken by the commander to spare, as far as possible, sacred edifices, buildings used for artistic, scientific or charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected, on the understanding that they are not used at the same time for military purposes.

It is the duty of the inhabitants to indicate such monuments, edifices, or places by visible signs, which shall consist of large, stiff rectangular panels divided diagonally into two coloured triangular portions, the upper portion black, the lower portion white.

**Article 6:** If the military situation permits; the commander of the attacking naval force, before commencing the bombardment, must do his utmost to warn the authorities.

**Article 7:** A town or place, even when taken by storm, may not be pillaged.

These prohibitions, by themselves, are very defective. Their first defect is that the undefended place has not been clearly defined. They do not indicate clearly the signs by which a place is declared a defended or undefended place. The second defect is that issuing a warning to the inhabitants of the place has been left to the sole discretion of the commander of the attacking force, inasmuch as he may even not issue a warning at all. The third defect is that on the one hand, instructions have been given to respect the sanctity of "sacred edifices, buildings used for artistic, scientific or charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected," and on the other hand a condition has been



attached to this instruction that these buildings "are not used at the same time for military purposes," which could be taken advantage of by the commander of army or naval force and bombard these buildings on the pretext that they were being used for military purposes.

The biggest defect is that "the bombardment of undefended ports, towns, villages, dwellings, or buildings may be commenced, if the local authorities, after formal summons has been made to them, decline to comply with the requisitions for provisions or supplies necessary for the immediate use of the naval force before the place in question." This has rendered all other prohibitions meaningless because when an attacking force makes an intention to attack an "undefended" place, it can always demand from the undefended population provisions and supplies beyond its resources and when not complied with the demand, commence bombardment citing non-compliance of its demand. Although in the second paragraph of Article 3, quoted above, it has been made clear that the "requisitions shall be proportionate to the resources of the place," it is not clear who will decide as to the "proportionate" of the local resources. If, in the opinion of the attacking force, a certain quantity of provisions is proportionate to the resources of a particular place, and in the opinion of the local authorities it is disproportionate, which court will decide whose opinion is right and whose is wrong.

In spite of the aforesaid defects, the militarists have openly opposed these prohibitions. As regards notifying the enemy before the commencement of bombardment, the militarists say that such notification will "mean a loss of precious time."<sup>1</sup> As regards the regulation that the requisition of the provisions shall be proportionate to the

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<sup>1</sup> Morgan, J. H., *The War Book of the German General Staff* (a translation of the booklet *Kriegsbrauch im Landkriege*), p. 104, (New York, 1915).

local available resources, the militarists say that "the justification for this condition would be willingly recognized by everyone in theory, but it will scarcely ever be observed in practise."<sup>1</sup> Further the militarists are of the opinion that during the course of bombardment giving allowance to the non-combatants is not only unnecessary, but targeting them particularly would be in accordance with military strategy. The German War Book says:

*"If the Commandant of a fortress wishes to strengthen its defensive capacity by expelling a portion of the population such as women, children, old people, wounded, etc., then he must take these steps in good time, i.e., before the investment begins. If the investment is completed, no claim to the free passage of these classes can be made good. All juristic demands to the contrary are as a matter of principle to be repudiated, as being in fundamental conflict with the principles of war. The very presence of such persons may accelerate the surrender of the place in certain circumstances, and it would therefore be foolish of a besieger to renounce voluntarily this advantage."*<sup>2</sup>

These thoughts were not just expressed orally and in writing, but in practice too these prohibitions were openly contravened. After the 1907 Hague Conference, the first war in Europe was fought between Turkey and Italy (1911-1912), and Italy bombarded, among other cities, Beirut too and completely destroyed one of its undefended portions along with its inhabitants. Again in 1912, in the First Balkan War between the Balkan League (comprising Bulgaria, Greece, Montenegro and Serbia) and Turkey, the non-combatants in Thrace and Macedonia were brazenly massacred. Mr. Muhammad Marmaduke Pickthall, the eminent British author, journalist and editor of various magazines, writes in one of his articles that "during the first

<sup>1</sup> Morgan, J. H., *The War Book of the German General Staff* (a translation of the booklet *Kriegsbrauch im Landkriege*), p. 106-107, (New York, 1915).

<sup>2</sup> Morgan, J. H., *The War Book of the German General Staff* (a translation of the booklet *Kriegsbrauch im Landkriege*), p. 106-107, (New York, 1915).

Balkan War, there was a systematic massacre of the Muslim population and some three hundred thousand [300,000] destitute Muslims fled to Asiatic Turkey." In the footnote to the said article he writes: "240,000 killed in Western Thrace alone," I was cheerfully informed at the dinner table by a gentleman who professed to draw his information straight from the F.O. [i.e. British Foreign Office]."<sup>1</sup> During the First World War [so also in the Second World War], between "the most civilized" States of Europe, all the aforesaid prohibitions were brushed aside as if they had never been imposed. Birkenhead writes in his book *International Law*:

*"The agreement to extend immunity to undefended places was an advance on the views previously accepted, but it is doubtful whether the Convention in which it is contained was binding during the Great War; it is certain that it failed to stand the test of the war, in the course of which the belligerents levelled against each other numerous charges of unlawful bombardment. In the result, the classification of villages and towns into "defended" and "undefended" must be regarded as obsolete. No further attempt has been made to define the limits of land bombardment, but the apparent scope of such limits may be inferred from the rules which have been suggested in regard to aerial bombardment."*<sup>2</sup>

In this context, the thing that contributed most in the obliteration of the prohibitions imposed in the Hague Conventions is the use of aeroplanes in the war. Aeroplane, in fact, is not a weapon of war in the sense that it can make any significant contribution in achieving the objective of war. The main objectives of war are destroying the military power of the enemy and occupying more and more of its territory. But aeroplanes cannot achieve these

<sup>1</sup> Muhammad Marmaduke Pickthal, *Massacres and the Turks: The Other Side*, published in *Foreign Affairs*, Special Supplement, July 1920, pp. xiv-xvi.

<sup>2</sup> Birkenhead, Fredric Edwin Smith, *International Law*, (6<sup>th</sup> Edition), edited by Ronw, Moelwyn Hughes, p. 226, (London & Toronto, 1927).

two objectives. However, what they can do is that they can indiscriminately drop bombs from the sky on civilian populations thus killing women, children, the sick and the wounded; obliterate villages, towns and cities; terrorise the civilians of the enemy State to such an extent that they hesitate to participate in war; and ultimately break the morale of the enemy. Before the First World War, the jurists considered this kind of war unlawful, but when this became a common practice, the views of the jurists also changed and it was considered to be the kind of war which is unavoidable. Paul Eltzbacher held such a view; Prof. Nippold opposing this view writes:

*"Eltzbacher is of the contrary opinion. He says on p. 67 [of his book Totes und lebendes Volkerrecht] that many kinds of activity are permissible, the purpose of which is to shatter the spiritual foundations of the enemy's warfare. Among these activities he counts the bombardment of undefended coast cities by warships, because such bombardments are not merely adapted to disturb the enemy's economic life, but also to fill the enemy population with a very special terror. 'For the same reason no reservation should be imposed on the hurling of bombs from aircraft. In respect to such attacks the distinction between fortified or defended places on the one hand and unfortified or undefended on the other is quite purposeless. For, in the great majority of cases bombs are thrown not to help to conquer a place, but to disturb the enemy's economic life and, above all, to create despondency and war weariness in the hostile population. These effects are also attained by bombs which fall upon defenseless places.'"*<sup>1</sup>

After the First World War the question of establishing limits and boundaries concerning aerial warfare arose and the public opinion of Europe and USA stressed upon formulation of rules and regulations in this regard. In 1922, the Washington Conference appointed a Commission on

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<sup>1</sup> Nippold, Otfried, *The Development of International Law after the World War*, p. 144; (London, 1923).

which Great Britain, France, Italy, Japan, Holland and the United States were represented, to consider the rules of aerial warfare. After much deliberation the Commission submitted its recommendations which are as follows:

- A sharp distinction should be drawn between belligerent and non-belligerent air vessels; the qualifications for belligerent aircraft of a commission by the State and the wearing of distinctive uniform by the crew are reinforced by provisions prohibiting the use of false external marks, and prohibiting any other aircraft from engaging in hostilities, or being armed even in self-defence.
- Tracer explosive and incendiary projectiles may be used by and against aircraft.
- A problem of much concern during the Great War to those engaged in air fighting is solved by a prohibition forbidding attack against airmen descending by parachute.

“The most important of the Commission's recommendations are:

- ... Aerial bombardment is declared to be legitimate only when directed at a military objective. In addition to a definition of military objective as an object of which the destruction or injury would constitute a distinct military advantage to the belligerent, the suggested rules enumerate the permissible objectives; they are: military forces, military works, military establishments or depots, factories constituting important and well-known centres engaged in the manufacture of arms, ammunition or distinctively military supplies, and lines of communication or transportation used for military purposes.

But these objectives are to be spared if they are so situated that they cannot be bombarded without an indiscriminate bombardment of civilian population.

- Towns and buildings which lie in the immediate area of the operations of land forces, and with regard to which a presumption of sufficient military concentration may reasonably exist, are also declared legitimate objects of bombardment.
- Outside the theatre of war the bombardment of towns and buildings is prohibited; so is any bombardment directed for the purpose of terrorising the civilian population, of damaging private non-military property, or of enforcing compliance with requisitions or with demands for contributions."<sup>1</sup>

However, these regulations have remained just on paper; no State has adopted them and made them a part of its constitution. Moreover, it remains doubtful if accepted they would be obeyed too in future wars. Birkenhead writes:

*"The proposed rules for regulating bombardment have been criticised for their liberality; it is open to doubt whether if accepted they would secure obedience in future wars waged more extensively from the air than was considered possible in 1918 at the close of the Great War."*<sup>2</sup>

From the above detailed discussions, it is quite evident that the distinction that the Western Law had established between defended and undefended populations and the rights that it had bestowed on the undefended population are just a mirage, and practically the Western Law has nothing much in store than just a concept that "the lives, wealth and property of non-combatants are worthy of concern." As far as their actual implementation is concerned, it is as non-existent as it was during the period of Grotius.

**(iv) Cities Conquered by Assault:** The next issue in the discussion about the rights of the non-combatants is the

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<sup>1</sup> Birkenhead, Fredric Edwin Smith, *International Law*, (6<sup>th</sup> Edition), edited by Ronw, Moelwyn Hughes, p. 226-227, (London & Toronto, 1927).

<sup>2</sup> *Ibid*, p. 227.

way the inhabitants of the cities and towns are to be treated when they are conquered by assault after waging a full-scale war. In the ancient times, it was considered a natural right of the conquering army to massacre the entire inhabitants of the city conquered by it; in Europe too this custom was being followed till the recent past. During the rebellion against Spain by the Dutch (started in 1568) which resulted in the establishment of the Republic of the Seven United Netherlands in 1581 and during the subsequent wars – both religious and political – between Spain and the United Netherlands, which lasted 80 years, i.e. till 1648 (hence known as the Eighty Years' War), both the parties used to brazenly massacre the civil population of conquered villages, towns and cities. Although, after the destructive Thirty Years' War (1618-1648), the conscience of Europe began to consider such massacres the most dreadful and atrocious acts, it was not prohibited till the middle of the 19<sup>th</sup> Century. Hence, the Duke of Wellington was of the opinion that the defenders of a city, when subdued by assault, had no right for any quarter. During the Peninsular War (1808-1814), the French forces, often times, threatened the besieged towns, cities and forts that their inhabitants would be massacred if they continued the resistance. Hence, after the capture of the Spanish coastal city of San Sebastian (1808), the Spanish city of Ciudad Rodrigo (July, 1810), and the Spanish fort of Badajoz, (March, 1811), the French troops actually massacred their inhabitants. During the Russo-Turkish War (1787-1791), when Russian troops captured the city of Ismael in November 1790, they massacred both the combatants and the non-combatants.

When France captured the Algerian capital Qasantina, the French forces massacred its population for three days. In 1857, when the British forces conquered Delhi, they massacred the population and did not even honour the members of the Moghal royal family. At the time when

these kinds of massacres took place, there was no law in Europe which prohibited such massacres. No doubt, the Brussels Conference of 1874 had forbidden pillage under Article 39, but since the Conventions of this Conference were never ratified by any of the States, this article could not become part of the laws of the European States. Hence, for the first time the law that prohibited this act was the one under Article 28 of the II Convention respecting the Laws and Customs of War on Land, passed in the Hague Conference of 1899, which states that "the pillage of a town or place, even when taken by assault, is prohibited;" however, practically this practice still exists. In 1919 and 1920, the barbaric way in which the Greek forces, under the patronage of the "most civilized" states of Europe, treated the non-combatant civilian population of the Turkish cities of Smyrna, Eastern Thrace and other cities, proves that this painful souvenir of the barbaric past still survives in this modern age of civilization of the 20<sup>th</sup> Century. However, as far as theoretical aspect of the matter is concerned, Europe got the opportunity to know about the civilized and humane way of making a victorious entry into a territory taken by assault only recently, whereas Prophet Muhammad (peace be upon him) had set a practical example more than 1400 years ago when he had entered Makkah as a victor and had granted peace and protection to both the non-combatants and the surrendered combatants alike, and which example was later followed by his rightly-guided Caliphs during whose tenures hundreds of cities in Iran, Iraq, Syria, Egypt and Africa were captured by assault.

(v) **Laws of Occupation:** Occupation is a modern terminology and its perception is also modern. In the olden days, when a State conquered any other State or country, it came directly under the dominion of the conquering State. Under the Islamic Law too, when a State is conquered, it automatically forms a part of the Islamic State and its non-



Muslim inhabitants become entitled to the rights of protectees (*zimmies*).<sup>1</sup> But according to the modern International Law, when a State comes under the occupation of an enemy State it does not mean that it has come under its lawful dominion. Rather, the occupying power will just remain an authority to maintain orderliness until its holding is not lawfully transferred by way of a negotiated settlement or after entering into a peace treaty with the former government. Technically, it is known as "Occupation." The inhabitants of the territory that come under this kind of occupation are practically neither considered as the citizens of their former State, nor are considered, in principle, the citizens of the occupying State; rather they lead a life of conquered and subjugated people. The Hague Conventions of 1899 and 1907 have not tried to clearly define and set the boundaries of this subjugation, nor have they decided to what extent the occupying State can impose or not impose its authoritative power on them. However, they have formulated some Regulations which specify the rights and duties of the occupying power and the inhabitants of the conquered territory. We quote below the Regulations adopted in the 1907 Hague Conference in this regard:

1. The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country. (Article 43)

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<sup>1</sup> The differentiation that the Islamic Jurists have made in this regard is that during the course of war the territory which comes under the occupation of Islamic forces and when there is no clear indication as to this occupation being of a permanent or a temporary nature, laws pertaining to a belligerent territory shall apply. Once the occupation becomes permanent and the Islamic State announces its annexation, laws pertaining to occupied territories shall be applied.

This article formulates just a general policy with regard to the occupying power, and actually it is meaningless. The words "as far as possible," and "unless absolutely prevented" which indicate the limitation with regard to "respecting the laws in force in the country" are quite ambiguous, and give the authority to the occupying power as if they are the lawful holder of the territory to impose their own laws on the pretext that it is impossible to respect the laws in force in the country. Hence, this Article does not differentiate much between occupation and formal dominion.

2. A belligerent is forbidden to force inhabitants of territory occupied by it to furnish information about the army of the other belligerent, or about its means of defence. (Article 44)

This Article was rejected and not ratified by Germany, Japan, Russia, Austria-Hungary and Montenegro. The militarists had strong reservations with regard to this article as they did not want to accept any prohibition which impeded acquisition of information concerning military operations. *The War Book of the German General Staff* comments on this issue thus:

*"The view that no inhabitant of occupied territory can be compelled to participate directly in the struggle against his own country is subject to an exception by the general usages of war which must be recorded here: the calling up and employment of the inhabitants as guides on unfamiliar ground. However much it may ruffle human feeling, to compel a man to do harm to his own Fatherland, and indirectly to fight his own troops, nonetheless no army operating in an enemy's country will altogether renounce this expedient. But a still more severe measure is the compulsion of the inhabitants to furnish information about their own army, its strategy, its resources, and its military secrets. The majority of writers of all nations are unanimous in their condemnation of this measure. Nevertheless it cannot be entirely dispensed with; doubtless*

*it will be applied with regret, but the argument of war will frequently make it necessary."*<sup>1</sup>

The German war establishment is not alone in these views; the other militarists of Europe also endorse these views. As far as we can gather, till today this Article has not been abided in any of the wars.

3. A belligerent is likewise forbidden to compel the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war. (Article 23 (h))

According to Prof. Morgan "this, however, is simply a general statement of principle, and attempts to define it more closely have not been conspicuously successful,"<sup>2</sup> and, therefore, it is quite evident that where the States or the armed forces are given the right to act independently, this kind of "general statement of principle" is rendered useless. The armed forces act according to the exigencies of war. Hence, this freedom of action was extensively utilised during both the World Wars and all the belligerent States forced the subjects of each other State not only to work for them in the field of communications, but also forced them to dig trenches and to build fortifications in the rear of the fighting lines.

4. It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile power. (Article 45)
5. Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated. (Article 46)
6. Pillage is formally forbidden. (Article 47)

<sup>1</sup> Morgan, J. H., *The War Book of the German General Staff* (a translation of the booklet *Kriegsbrauch im Landkriege*), p. 153, (New York, 1915).

<sup>2</sup> Baty, Thomas, and Morgan, John Hartman, *War, Its Conduct and Legal Results*, p. 184, (New York, 1915).

The aforesaid three Articles have the status of just "general statement of principle," and do not have any legal standing.

7. If, in the territory occupied, the occupant collects the taxes, dues and tolls imposed for the benefit of the State, he shall do so, as far as possible, in accordance with the rules of assessment and incidence in force, and shall in consequence bound to defray the expenses of the administration of the occupied territory to the same extent as the legitimate Government was so bound. (Article 48)
8. If, in addition to the taxes mentioned in the above article, the occupant levies other money contributions in the occupied territory, this shall only be for the needs of the army or of the administration of the territory in question. (Article 49)
9. No contribution shall be collected except under a written order, and on the responsibility of a commander-in-chief. The collection of the said contribution shall only be effected as far as possible in accordance with the rules of assessment and incidence of the taxes in force. For every contribution a receipt shall be given to the contributors. (Article 51)
10. Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country. Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied.  
Contributions in kind shall, as far as possible, be paid for in cash; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible. (Article 52)

11. An army of occupation can only take possession of cash, funds, property, etc. and realizable securities which are strictly the property of the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations.

All appliances, whether on land, at sea, or in the air, adapted for the transmission of news, or for the transport of persons or things, exclusive of cases governed by naval law, depots of arms, and, generally, all kinds of munitions of war, may be seized, even if they belong to private individuals, but must be restored and compensation fixed when peace is made. (Article 53)

The aforesaid Articles have tried to impose restrictions on the rights of the occupying power with regard to occupation, appropriation, benefiting and utilization of the occupied territories, and have tried to extend protection to the inhabitants of the occupied territories from the plunder of the occupying army. However, the militarists commonly refuse to follow these instructions on the ground and insist on obtaining all possible benefits out of the occupied territories for their military contingencies. *The War Book of the German General Staff* translates this view thus:

*"The question stands in quite another position if the necessity of war demands the requisition of the stranger's property, whether public or private. In this case, of course, every sequestration, every temporary or permanent deprivation, every use, every injury and all destruction are permitted."*<sup>1</sup>

As regards the recommendation that the requisitions in kind and services "shall be in proportion to the resources of the country," the German War Book says:

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<sup>1</sup> Morgan, J. H., *The War Book of the German General Staff* (a translation of the booklet *Kriegsbrauch im Landkriege*), p. 161-162, (New York, 1915).

*"Article 40 of the Declaration of Brussels requires that the requisitions (being written out) shall bear a direct relation to the capacity and resources of a country, and, indeed, the justification for this condition would be willingly recognized by everyone in theory, but it will scarcely ever be observed in practice."*<sup>1</sup>

The opinion of Clausewitz on this issue is very popular among the militarists. He allows use of everything in the occupied territories which is necessary for the armed forces. Hence, he thinks it important not only to pressurize the local authorities but also to terrorise the local population to supply all the requirements of the armed forces. He says:

*"The law of requisitions has no other limits than the exhaustion, impoverishment, and destruction of the country."*<sup>2</sup>

Here too, the opinion of the militarists, as usual, has overwhelmed the proposals of the jurists, and therefore, we find that the Hague Conventions are never followed in any of the wars.<sup>3</sup>

12. No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible. (Article 50)

In the First World War, this restriction too became as if it never existed, because the belligerents brazenly imposed penalties on the population of their respective occupied territories, and used this method quite often when a particular individual could not be apprehended for his crimes.

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<sup>1</sup> *Ibid.*, p. 176.

<sup>2</sup> Clausewitz, Karl von; *Vom Kriege (On War)*, Vol. II, p. 85, translated into English from German by Col. J.J. Graham, (London 1909).

<sup>3</sup> The behaviour of America, Britain and Russia during the occupation of Germany and Japan after the Second World War showed that these "civilized" Western countries are not interested in following even the laws formulated and ratified by them.

(vi) **Pillage, Plunder and Devastation:** Till the 17<sup>th</sup> Century it was common in Europe that when an army invaded a country, it used to destroy everything in its wake. The right to pillage and plunder at that time was unlimited. Till the middle of the 19<sup>th</sup> Century, we find instances of this right being made use of by the armies. Hence, in 1813, the United States of America burnt down many villages in Canada, and in retaliation, the British destroyed many buildings in Washington. In 1837, the French forces let loose a reign of terror and destruction in Algeria. In 1857, the British forces in India indulged in large-scale plunder, pillage, burning and slaughter in Kanpur, Lucknow, Delhi and other territories. In the battles between Russia and Turkey, before the war of Crimea, whenever Russian troops invaded the Turkish territories, they used to indulge in widespread destruction. However, theoretically, the perception to restrict this right had taken root in the 17<sup>th</sup> Century itself. Hence Grotius had devised the principle that only "such ravage is tolerable as in a short time reduces the enemy to seek peace."<sup>1</sup>

Thereafter, in the beginning of the 18<sup>th</sup> Century, Vattel formulated the principle that:

*"The utter destruction of a hostile territory is authorized and excused in two cases only. The first is when there exists a 'necessity for chastising an unjust and barbarous nation for checking its brutality and preserving ourselves from its depredations,' and the second exists when there is evident need 'for making a barrier, for covering a frontier against an enemy who cannot be stopped in any other way.'*

*"In discussing this he practically adds as a third case the destruction that may be required in order to carry on field operations or the works of a siege."<sup>2</sup>*

<sup>1</sup> Lawrence, Thomas Joseph; *The Principles of International Law*, p. 441, (Boston, USA, 1908).

<sup>2</sup> *Ibid*, p.441.

At the end of the 19<sup>th</sup> Century, the Western thoughts progressed a little further towards civilization and the Brussels Conference of 1874 prohibited, as a general principle, under Article 13 (g):

*"Any destruction or seizure of the enemy's property that is not imperatively demanded by the necessity of war."*

But the inclination of the European jurists and militarists of the 20<sup>th</sup> Century was that for the requirements of war every kind of devastation was permissible. However, they too consider unnecessary and unwarranted devastation unlawful. Lawrence states:

*"The laws of war allow the suburbs of a town to be destroyed in order to keep the besiegers from effecting a lodgment in them, or afford free scope to the action of artillery. Buildings may be demolished and trees cut down to strengthen a position, and even villages burnt to cover a retreat. But such devastation must be absolutely necessary for the attainment of some direct and immediate military end. It is not enough that there should be merely a vague expectation of possible advantage to accrue from the act."*<sup>1</sup>

Prof. Westlake writes:

*"It is further agreed that even where a thing does not fall under any absolute prohibition, it may only be done in the circumstances and in the measure in which it may reasonably expected to contribute to the success of the operation concerned."*<sup>2</sup>

The War Book of the German General Staff says in this regard thus:

*"No harm must be done, not even the very slightest, which is not dictated by military consideration; every kind of harm may be done, even the very utmost, which the conduct of war requires or which comes in the natural course of it."*<sup>3</sup>

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<sup>1</sup> Lawrence, Thomas Joseph; *The Principles of International Law*, p. 441, (Boston, USA, 1908).

<sup>2</sup> *Ibid*, p. 441.

<sup>3</sup> Westlake, John, *Chapters on the Principles of International Law*, p. 236-237 (Cambridge, 1894).



Here the Western law strikes a similarity with the Islamic Law. Islamic Law also says that it is lawful to destroy the enemy territory if it becomes necessary to conquer a city or for a military operation to succeed; but such destruction should not cross the limits of indispensability. The details in this regard have been given in Chapter V, under the sub-title "*Prohibition of Destruction*" of this book. However, there is a difference between Islamic Law and the Western Law in one aspect.

Islam does not differentiate between civilized and uncivilized enemy. It considers destruction of the crops and devastation of habitations of civilized enemy equally acts of oppression as the destruction and devastations of crops and habitations of uncivilized enemy. Rather, the age in which the Islamic Law was formulated, there were no so-called "civilized enemies;" there were only "uncivilized enemies" everywhere. But the Western Law differentiates between civilized and uncivilized enemies. According to it, the condition of "indispensability" for destruction and devastation is only for the "civilized" enemy; as regards the "uncivilized" enemy, the "civilized" nations have the unlimited right to destroy and devastate it. Prof. Lawrence writes:

*"In warfare with barbarous or semi-barbarous races the first exception allowed by Vattel is often acted upon. It is commonly supposed that a vast impression is made upon the minds of savages by driving off their cattle, destroying their crops, and setting fire to the thatch of their mud huts. And if the latter operation is performed by shells, and as an incidental consequence a good many of the inhabitants are slain, the impression created is held to be so deep and lasting that an abiding sense of the justice and power of the white man can be confidently expected to grow up in the bosoms of all the survivors."*<sup>1</sup>

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<sup>1</sup> Lawrence, Thomas Joseph; *The Principles of International Law*, p. 441-442, (Boston, USA, 1908).

## THE RIGHTS AND DUTIES OF NEUTRAL POWERS

Out of the Western Laws of War, now only the law concerning the neutral powers has remained to be discussed. After commenting on it, we will conclude this lengthy chapter.

### 1. History of Neutrality

The perception concerning neutrality in the Western nations came into existence only in the recent past. Till two centuries ago they did not have any perception at all about it, and if there was one it was incomplete inasmuch as there were no proper words to express it. Grotius used the word *medii* (middle) and Bynkershoek had coined the phrase *non-hostes*. "In the seventeenth century the terms neutral and neutrality occur in a Latin and a German dress as well as in English, but they had to be adopted into the French language before their use became general. Vattel, writing in 1758, spoke of *neutre* and *neutralite*; and in the following year Hubner published his *De la Saisie des Bateiments Neutres*. From that time the words became technical terms, and were used by all writers and speakers upon the department of International Law, with which we are now concerned."<sup>1</sup>

Till the 16<sup>th</sup> and the 17<sup>th</sup> Century neutrality was considered to be a dangerous and an impossible position, and practically there was no perception of it at all. "The Florentine statesman [Machiavelli] characteristically advises that the ideal Prince should never be neutral in wars between his neighbours, since it is always more advantageous to take part in the struggle. He argues that,

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It is interesting to note that this excerpt has been deleted from the latest edition of Lawrence's book. Perhaps, after seeing the growth and expression of self-respect and dignity in the bosoms of barbarous nations, a sense of shame has started growing in the white man's bosom too.

<sup>1</sup> Lawrence, Thomas Joseph; *The Principles of International Law*, Third Edition, p. 475, (Boston, USA, 1908).

when there is reason to fear whichever of the belligerents happens to become the conqueror, it is wise to take up arms on one side or the other, because, if you do not, 'you are certain to become the prey of the victor to the satisfaction and delight of the vanquished.' If on the other hand neither party to the struggle can give you cause for fear, 'it is all the more prudent for you to take a side, for you will then be ruining the one with the help of the other, who, were he wise, would endeavour to save him. If he whom you help conquers, he remains in your power, and with your aid he cannot but conquer.' "<sup>1</sup> A century thereafter, Grotius suggests that a ruler should support that belligerent who is on the right and should oppose that party who is on the wrong. However, when it is difficult to judge who is on the right and who is on the wrong, then both should be treated alike.<sup>2</sup>

Practically, till the end of the 18<sup>th</sup> Century the rights and duties of the neutral powers had not been specified or codified. The belligerents used to cross the borders of the neutral countries without any hesitation whatsoever, and the neutral powers did not hesitate to aid and help those belligerents whom they liked or supported. For the first time, a beginning in regulating the rights and duties of the neutral powers was made in 1794 when the American "Congress forbade American citizens to enlist in the army or navy of a foreign state, and prohibited other acts in defiance of the neutrality of the United States. It also gave the President the right to use the army and navy to prevent the departure from American jurisdiction of vessels offending the Act. ...Originally its operation was limited in point of time, but in 1800 it was made perpetual. Additional acts and amending acts were passed at frequent intervals, till in 1818 the whole law on the subject of neutrality was

<sup>1</sup> Lawrence, Thomas Joseph; *The Principles of International Law*, Third Edition, p. 476-477, (Boston, USA, 1908).

<sup>2</sup> *Ibid*, p. 477.

codified and embodied in the great Foreign Enlistment Act which is still in force. By this statute, citizens of the United States are prohibited from serving in war against any foreign state with which the United States are at peace. ...These proceedings of the United States from 1794 to 1818 mark an era in the development of the rights and obligations of neutral powers. ...In 1819, Great Britain adopted a neutrality statute based avowedly upon the act passed by Congress in the previous year; and in 1870 after her experience of the weakness of her law in dealing with the *Alabama* and other Confederate cruisers, she strengthened it by a new and more stringent Foreign Enlistment Act, which in several particulars goes beyond the American law in severity. The neutrality regulations of other civilized states are drawn upon similar lines, though they differ considerably from one another in their prohibitions and permissions."<sup>1</sup> Hence, by the 19<sup>th</sup> Century all the Western countries had codified laws of neutrality. However, the International Law of Neutrality could be comprehensively codified only in the Hague Conference of 1907, where all the Western countries, for the first time, jointly formulated, regulated and ratified the rights and duties of the neutral powers.

## 2: Status of Neutral Powers in Modern Times

It is an irony that the 20<sup>th</sup> Century was the Century in which the Law of Neutrality was fully codified and it was the Century which also saw it in the throes of death. Not even a period of seven years had passed after the codification of laws by the Hague Conference of 1907, when the First World War commenced in Europe which torn asunder the entire Law of Neutrality.<sup>2</sup> During the First

<sup>1</sup> *Ibid*, p. 492-494.

<sup>2</sup> The little pieces and threads of whatever left of this tunic were also plucked and thrown away during the course of the Second World War. There remained no meaning of neutrality at all when, in this War, the neutral countries were

World War of 1914-1917, there was no right of the neutral countries which had not been audaciously trampled under the foot; their borders were violated; their ships were sunk, their trade and commerce were destroyed; their ships were boarded and searched; their citizens were arrested; in short every action against them was taken which usually is taken against belligerents, inasmuch as it became suspect if the neutral countries had any rights at all. Furthermore, even the concept of neutrality itself became a suspect. Since war has not remained just a war but rather has become chiefly an economic warfare, a question has arisen whether a country which has economic ties with one of the belligerents, which makes available essential provisions required by it for its sustenance, and which provides it with necessary means for the survival and strengthening of its economic life, can be considered a neutral. Can it justifiably claim separate rights to carry on such work? This issue has struck a fatal blow on the very foundation of neutrality, and it is a fact that in the light of these new issues, the International Law has not yet been able to decide what should be the rights of the neutral powers and what should be their duties and obligations.

This is not an exaggerated analysis of the prevalent situation. Rather, these are the very issues which have been baffling the scholars of international law. Prof. Nippold has discussed this issue in detail in his book *The Development of International Law after the World War* and has quoted many renowned scholars in this regard. He writes:

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brazenly attacked, when armed forces were stationed and forcibly made passages through their territories, and when their resources were used by coercion. Ultimately, when an announcement was made for the establishment of an organization of United Nations for conservation of peace in the world, the United States, England and Russia gave notice to all the neutral countries that if they did not declare and join the war against Germany, they would not be included in the organization and that they would be deemed to have been evicted from the brotherhood of civilized and peaceful nations.

*"Presumably the most difficult problem of all will be the bringing into accord the interests of the neutrals and needs of modern economic warfare. Even before the war I pointed out the postulate which should be placed at the head of the list of demands respecting the building of war law, namely, that the least possible injury be inflicted upon neutrals.*

*"How can this postulate be made to harmonize with the doctrine of military necessity which demands the attainment of the war aim by the aid of any and all means? Eltzbacher is of the opinion that the position of neutrals before the law has grown much worse in the present world war. Many rights of neutrals were so generally and regularly violated that they can no longer be considered as existing.*

*"Since they have been so overridden to-day, future wars will no longer recognize them. The new convictions of what is right and just have swept old rights aside. The breach with the past is irreparable. The position occupied by former law, in particular Articles 2 and 4 of the Paris Declaration of Maritime Law, has been usurped through a revolutionary remoulding process by a new unwritten law which permits far deeper attacks upon the existence of the neutral states. The present time is unfavourable for the rights of neutrals."<sup>1</sup>*

He further writes:

*"An age of world wars seems to be dawning and every great state must count on being drawn into them. International Law is based ultimately on the will of the great nations. Without their support no institute of international law can be maintained. At a time when the inviolability of neutrals is merely a burdensome fetter for the majority of the great states, the position of neutrals in International Law must of necessity grow worse."<sup>2</sup>*

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<sup>1</sup> Nippold, Otfried, *The Development of International Law after the World War*, p. 145, (London, 1923).

<sup>2</sup> Nippold, Otfried, *The Development of International Law after the World War*, p. 146, (London, 1923).

We can gather the present status of the Western Law of Neutrality from the above statements. Now, we shall analyze the Law of Neutrality in detail and see how far it is comprehensive and stable, and also discuss about its stature vis-à-vis the Islamic Law of Neutrality.

### **3. The Duties of Belligerent States towards Neutral States<sup>1</sup>**

The aforesaid Hague Conventions V and XIII clearly define the duties of the belligerent states towards the neutral states in case of war on land or sea. The most important of them is:

1. To refrain from carrying on hostilities within neutral territory.
2. It should not take its army, arms and ammunitions and supplies across the territory of a neutral power.
3. To abstain from making on neutral territory direct preparations for acts of hostility.
4. It is obligatory to desist from invading the neutral territory, both land and water, in order to attack or make arrests of the enemy forces.
5. Obey all reasonable regulations made by a neutral State for the protection of its neutrality.
6. To make reparation to the state whose neutrality has been violated intentionally or unintentionally.

The aforesaid duties are just branches of the basic principle which stipulates that "the territorial integrity and borders of a neutral Power are inviolable and they should never be violated." The very same principle is also found in the Islamic Law too. One of the permanent statutes of the Islamic Law is that the borders of the country with which the Islamic State is at peace and which does not take part in any sort of belligerency against Islam and Muslims cannot be breached; if the enemy forces were to enter into

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<sup>1</sup> The Hague Conference of 1907 has laid down the Rights and Duties of the Neutral Powers under Conventions V and XII. [Translator]

the territory of a neutral power, they cannot be pursued; citizens of the belligerent country residing in that country cannot be attacked; rather, on the whole, during the course of the war it is prohibited to attack its citizens and commit any sort of aggression against it.<sup>1</sup>

#### **4. The Duties of the Neutrals towards the Belligerents**

The duties of the neutral Powers towards the belligerents, according to modern International Law are as follows:

1. Refrain from granting armed assistance to either or both the belligerents, and giving to one side privileges which it denies to the other.

This is the basic duty of neutrality. The very idea of neutrality is so embedded in this duty that the perception of neutrality cannot be perceived without the perception of this duty.

2. Granting or selling arms and ammunitions and equipment of war, and giving or lending money to either of the belligerents.

It means that during the course of war a neutral Power neither should sell arms and ammunition and other war materials nor lend money to any of the belligerents. However, the limitations imposed under this duty are unclear. One method of supplying the arms and ammunition is through gratuitous transfer or direct sales by the neutral Power to one of the belligerents, and the other is by sales through general auction of its stocks of arms and ammunition where the belligerent or his agent participates and buys the arms. The first method is unanimously prohibited under Article 6 of the Hague Convention XIII (which states: "The supply, in any manner, directly or indirectly, by a neutral Power to a belligerent power, of

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<sup>1</sup> For details refer Chapter V, sub-section "The Rights of the Neutral Powers," of this book.



war-ships, ammunition, or war material of any kind whatever, is forbidden"). But there has always been a difference of opinion with regard to the second method, and there have been instances in the past where many powerful States, who had declared their neutrality, have allowed it. For instance, during the Franco-German War, the United States of America, in 1870, auctioned its surplus stocks of arms and ammunition and the agents of France participated in the auction and purchased a large stock and sent to France which was used in the war. When objected to, the American Senate appointed a committee to examine the matter. The committee opined that the United States had not violated the duties of a neutral Power and asserted in its report that even if the President of France were to be present at the auction, it would have been lawful to sell arms to him, as the auction was a public auction and that there was no distinction between the belligerents.<sup>1</sup> With this decision, there would hardly remain any difference between a legal and illegal sale, and that benefit would not accrue for which this duty has been imposed on the neutrals.

As regards the second part of the duty concerning giving financial aid to the belligerents, it also has two aspects: one is the neutral state itself offering financial aid in the form of loans or grants, and the other is the subjects of a neutral state giving financial aid or lending money to any one or both the belligerents. The first is unanimously prohibited, but there is difference of opinion about the second aspect. The general practice is that the belligerents can freely obtain finances from the financial institutions of the neutral states. During the course of the First Sino-Japanese War (1894-1895), the Russo-Japanese War (1904-1905), Turco-Italian War (1911-1912), and Balkan War of

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<sup>1</sup> Wharton, Francis, *A Digest of the International Law of the United States*, Vol. III, p. 513 (Washington, 1888).

1912, the opposing belligerents freely obtained financial aid and loans from the people and the financial institutions of neutral States.

Further, "when in 1823, the British Cabinet consulted its law officers as to the legality of subscription and loans 'for the use of one of two belligerent states by individual subjects of a nation professing and maintaining a strict neutrality between them,' it received in reply an opinion to the effect that voluntary subscriptions of the nature alluded to were inconsistent with neutrality and contrary to the law of nations. But with respect to loans the distinguished lawyers consulted, among whom was Copley, afterwards Lord Lyndhurst, declared that 'according to the opinion of writers on the law of nations and the practice which has prevailed, they would not be an infringement of neutrality'."<sup>1</sup>

Thus the international law, by differentiating between a neutral state and its subjects, has obligated the state to fulfil its duty, while giving full freedom to its subjects to aid and support the war efforts of either both the belligerents or any one of them. Hence, it is quite evident that in this situation this duty of a neutral state becomes meaningless, because the commercial and financial resources of a neutral state are made available to the belligerents; when the financial resources are made available to the belligerents by a neutral state, it compromises its neutrality and it cannot maintain its status as a neutral state.

It is also the duty of a neutral state:

3. Not to allow belligerents to send troops through their territory.

This duty was formulated very recently. Till the 19<sup>th</sup> Century, the practice of the States and the opinions of the

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<sup>1</sup> Lawrence, Thomas Joseph; *The Principles of International Law*, Third Edition, p. 523, (Boston, 1908).

jurists were that it is permissible to allow the troops of the belligerents to pass through the territory of a neutral state. The jurist of the 17<sup>th</sup> Century, Grotius, writes "that a right of passage existed and might be taken by force if denied without just cause."<sup>1</sup> Vattel, the 18<sup>th</sup> Century Swiss jurist says "that the belligerent should always ask it of the neutral and never presume to take it by force, except under stress of extreme necessity or when the refusal was on the fact of it unjust. In all other cases the denial of the neutral state must be conclusive; but if it gave the required permission it was guilty of no offence, provided that it was ready to grant a similar passage to the opposing troops at the request of their government. This doctrine is still to be found in the works of writers of repute."<sup>2</sup> Wheaton, whose book *Elements of International Law* was published in 1836, although acknowledges this right but does not permit its use without the consent of the neutral state.<sup>3</sup> Manning, whose book *Commentaries on the Law of Nations* was published in 1839, does not consider such permission as defect of neutrality provided both the parties are given equal privilege.<sup>4</sup> Hall, whose book was published in 1880, declares it unlawful,<sup>5</sup> and almost all his contemporaries also considered it unlawful.

However, the practice of the States has generally been in the breach of this law. "During the wars of the French Revolution the neutrality of Switzerland was alternately violated by both the great contending parties, and her once peaceful valleys became the bloody scene of hostilities

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<sup>1</sup> Lawrence, Thomas Joseph; *The Principles of International Law*, Sixth Edition, p. 525, (Boston, 1908).

<sup>2</sup> *Ibid*, Third Edition, p. 525, (Boston, 1908).

<sup>3</sup> Wheaton, Henry; *Elements of International Law*, p. 563-564, Third English Edition, (London, 1889).

<sup>4</sup> Manning, William Oke; *Commentaries on the Law of Nations*, p. 186, (London 1839).

<sup>5</sup> Hall, William Edward; *International Law*, p. 523, (Oxford, 1880).

between the French, Austrian, and Russian armies. ... When the allied armies advanced to invade the French territory, in 1813, the Austrian corps under Prince Schwartzenberg passed through the territory of Switzerland, and crossed the Rhine at three different places, at Basle, Lauffenberg, and Schaffhausen, without opposition on the part of the federal troops."<sup>1</sup>

In 1877, during the Mexican "conflict between troops in the service of Diaz and other forces, supposed to be in the interests of Lerdo, on the Rio Grande frontier ... the Diaz troops, after defeating and routing their adversaries on Mexican soil, pursued them into Texas, where they again attacked and dispersed them."<sup>2</sup> The United States strongly objected to this and demanded reparation from the Government of Mexico.

*"The only instance of permission in recent times is afforded by Romania at the commencement of the Russo-Turkish war of 1877. Just before the outbreak of hostilities, the Russian and Romanian Governments negotiated a convention by which the former agreed to give the troops of the latter free passage through its territory on their march to the Danube for the purpose of invading European Turkey. They were to have the use of all railways, roads and telegraphs, but were not to pass through Bucharest, the Romanian capital, nor to interfere with the internal affairs of the state. The Russian commanders were responsible for the good order of their soldiers, and were to pay for all supplies they took from the country. In pursuance of this agreement at least half a million Russian troops passed through Romania during the war, and crossed the Danube into Bulgaria."*<sup>3</sup>

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<sup>1</sup> Wheaton, Henry; *Elements of International Law*, p. 552-553, Third English Edition, (London, 1889).

<sup>2</sup> Wheaton, Henry; *Elements of International Law*, p. 552-553, Third English Edition, (London, 1889).

<sup>3</sup> Wharton, Francis, *A Digest of the International Law of the United States*, Vol. III, p. 569 (Washington, 1888).

The most recent example of infraction of neutrality is during commencement of the First World War when Germany invaded Belgium and occupied her in order that the German troops could pass through her territory to invade France. Although this is considered as the brazen infraction of the rights of a neutral State, the events indicate that in future wars whenever a crisis of matter of life and death were to arise, the powerful belligerents would compel the weak neutral States to allow them to take their armed forces through their territories.<sup>1</sup> Therefore, it would not be wrong to presume that the International Law might revert to the law propounded by the past jurists which allowed belligerents to forcibly obtain passage for their troops through the territories of neutral States.<sup>2</sup>

It is also the duty of the Neutral States:

4. Not to permit belligerent agents or their own subjects to fit out warlike expeditions within their dominions, or increase therein the warlike force of any belligerent ship or expedition.

This duty comes under the implied duties of neutrality, and most probably it came into effect, for the first time, after the Treaty of Washington. Before this we find numerous examples of warlike preparations being carried out on the land and ports of the neutral States.

The final duty of a neutral State is:

5. Not to permit their subjects to enter the military or naval service of the belligerents or accept letters of marque from them.

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<sup>1</sup> Lawrence, Thomas Joseph; *The Principles of International Law*, Third Edition, p. 527, (Boston, 1908).

<sup>2</sup> During the course of the Second World War this happened in case of Iran. The United States and the Britain obtained a passage through her territory by force in order to supply arms and ammunitions to Russia and also militarily occupied a considerable portion of her territory. We are not going to give examples of the German infringements in this behalf, as Germany is notorious in breaking the civilized international laws.

This is also an implied duty of neutrality. But its conception came into existence only recently. During the Franco-English War of 1793, in spite of the declared neutrality of the United States of America, Americans in large numbers went abroad and joined the French Army to fight against the British forces. In 1824, hundreds of British took part in the Greek war of independence under the command of Lord Byron against the Turkish Empire. In the revolt of Serbia against the Turkish Empire thousands of Russian civilians crossed the Russian borders to join the Serbian army. Switzerland, till 1859, was a centre for enlistment of its subject. This clause of neutrality was fully conceptualized during the ending years of the 19<sup>th</sup> Century and the jurists of the International Law declared unanimously that allowing such recruitment of the subjects of a neutral States is against the laws of neutrality.

As regards the letters of marque (authorization to seize by way of reprisal or retaliation) issued to a neutral seaman by a belligerent, it "has been forbidden by International Law ...and the neutral governments have taken upon themselves the duty of preventing the acceptance of such commissions by their citizens."

This is the gist of the duties which the International Law imposes on the neutral States. The defects found in them have been discussed and explained above. However, the basic principle governing all these duties is just one and it is that the neutral States should not extend any help in case of war to any of the belligerents and should not act in such a way as to be construed directly helping one or both the belligerents in their war efforts. This principle can be found in the Islamic International Law too, which defines neutrality as: "Neither he should render help against us, nor should he impair our rights."<sup>1</sup> From this principle, sub-clauses can easily be derived. Every action which comes

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<sup>1</sup> For details refer to Chapter V, sub-section *The Rights of the Neutrals* of this book.

under the definition of "rendering help" and "impairment of the rights" nullifies the neutrality, and every neutral State is obligated to avoid taking such actions.

## A REVIEW

This Chapter has unexpectedly become lengthy and more exhaustive. Before ending it, it is necessary to pass a final comment on the previous points of discussion and clearly prove as to on what basis the Islamic Law has the right to pre-eminence over the Western laws. If you remember the points of discussion covered in the previous pages, it is not essential to quote them again here; it would be enough just to point out the reasons for the pre-eminence.

First, the International Law is actually not a "Law" at all. With regard to its principles and branches, it is entirely dependent on the consent and concurrence of the States. The States formulate and change it according to their objectives and exigencies, and the law disliked or disapproved by all the States or a few powerful States cannot remain a part of the "Law." Hence, the "Law" does not define and decide what the practice of the States should be; rather the States decide what the "Law" should be. As against this, the Islamic Law is "the Law" in its true sense. It has been formulated and promulgated by a Higher Authority, and the Muslims have not been given the right to make additions or deletions to it. It has been formulated to be followed by the followers of Islam without any why and wherefore, and those who decline to follow it are declared lawbreakers and rebels. If the people of the West disobey their International Law it no longer remains a "Law." On the other hand, if all the Muslims collectively were to disobey the Islamic Law, it would still retain its status as a Law.

Second, the Laws of War, which are part of the International Law, are even more unstable and untrustworthy. They are in perpetual conflict with the exigencies of war, and these exigencies are always engaged

in overpowering them. Moreover, the differences between the jurists and the militarists make them weaker and weaker. The jurists make one thing part of the laws and the militarists throw it out. The jurists try to formulate a civilized regulation and the militarists refuse to accept it. Since, the implementation power is always in the hands of the militarists, the laws of war written in the books remain in the books; the real laws followed are the one which the military formulates practically on the battleground. Compared to this, like the entire Islamic system of law, the Islamic Law of War too is permanent and unchangeable. Nobody can change the rules and regulations that have been enacted in view the exigencies of war. No Islamic army or its general has been given the right to amend, alter, abrogate or refuse to obey any of its rules and regulations.

Third, the foundation for the International Law of War has been laid down on the mutual agreement of the belligerents. A few States join together and decide that if they fight each other, they would abide with such and such rules and regulations. Those who are not part of this agreement are not dealt with according to the agreed rules and regulations, and those who break off from this agreement too exit from its circle and will not be entitled for the civilized behaviour of the civilized nations. Even if one of the parties to the agreement breaches the agreement, the other parties become entitled to ignore the terms of the agreement when confronting it. Ultimately, the law based on the agreed rules and regulations itself changes because of this breach of law. Hence, this law is not based on any ethical or moral sense of responsibility, but is based just on *quid pro quo* and mutual considerations. A belligerent does not behave with another belligerent in a civilized and humane manner because he is obligated to do so; rather he behaves as such on the condition that if he is treated humanely he would also treat him humanely; otherwise he is not bound to do it. The Islamic Law is not based on such



an understanding. Muslims are obligated to follow the rules and regulations that Islam has established in all circumstances whether the non-Muslim belligerents in return treat them humanely or inhumanely. The Islamic Law does not recognize any such right of a Muslim which frees him from its obedience in certain circumstances. In every circumstance and situation he is obligated to follow the Islamic Law. Whoever wishes to remain a Muslim, at any rate, must and should recognize the authority and domination of the Islamic Law.

Fourth, the Western civilized laws came into being only about 50 years ago, whereas the Islamic Law has kept the standard of civilized behaviour aloft for the past 1350 years.<sup>1</sup> In spite of this vast difference of time, as far as principles are concerned, the Western Law has not been able to improve the Islamic Law by adding even a word to it. Even with regard to the subdivisions, leaving aside those concerning the practical aspects which relate to the circumstances of the time, the Islamic Law is better than the Western Law; rather in some aspects Islamic Law, even now, is far superior to the Western Law.

Fifth, the Western civilization, after binding man by a few practical laws, has given him complete freedom and liberty to use his power wherever he wants and to achieve whatever objectives he wants to achieve. The only demand made by these laws is that if he kills someone he should kill in a particular way and should not kill him in such and such a way; it is not at all concerned for which objective one should kill and for what purpose one should not kill. From the practice of these civilized nations, we can deduce that the Western civilization permits war for territorial conquests, expansion of trade and commerce, acquisition of wealth and power, colonization, plunder and pillage and

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<sup>1</sup> It should be remembered that this book was written and published in the early 20<sup>th</sup> Century.

fulfilment of all other bestial wants. As against this, Islam not only binds its followers to a civilized system of war, but also instructs them that they can wage war only for the objectives which it has permitted and cannot go to war for the objectives which it has prohibited. It has not left this issue on the personal choice or liking of man, but has bound him to certain specific ethical boundaries and does not give him any right to cross them.

Because of these reasons, the Islamic Laws of War are more accurate and equitable, more beneficial, more reasonable, more efficient and more durable than the Western Laws of War.

Here an objection may be raised that you judge the Western Law based on the practice of the Western nations, but with regard to the Islamic Law you ignore the practice of Muslims and just present the virtues of the Islamic Law. But this objection expunges itself once the discussions presented in the previous pages are read carefully and understood well. It should be remembered that the Islamic Law and the practice of Muslims are two separate things. Neither the practice of Muslims nor even their concurrence has anything to do with the legislation of the Islamic Law. Hence, when a debate is on the excellence and deficiency of law, the issue of practice should be naturally set aside. On the contrary, the Western Law and the Western practice are not two separate things. The concurrence and practice of the Western nations specially contribute in the legislation of law. It has been proved beyond doubt that as far as the Western Laws of War are concerned, the practice of the Western nations leads and the Law always follows it. Hence, we are constrained to take into consideration the practice of the West as far as this issue is concerned.



**ANNEXURE<sup>o</sup>****THE SECOND WORLD WAR**

The seeds for the germination of another Great War were sown soon after the end of the First World War itself in 1918, and in the intervening 20 years mutual hatred, rivalries, intrigues, secret diplomacy, greed for more territories, wealth and fulfilment of self-interests at the cost of weaker nations supplied the necessary nutrients which helped them grow and bear the fruits in the shape of the Second World War; these were the same nutrients which had cultivated and nurtured the First World War. The nations which had suffered casualties and losses of catastrophic proportion did not learn their lesson and continued with their greed and pursuance of selfish ambitions. Added to the evil seeds of expansionism, militarism, racism, nationalism, imperialism, economic supremacy were added the seeds of Communism. In addition, the aftermath of the Great War created even more problems.

**CAUSES OF THE SECOND WORLD WAR****1. Communism**

In November 1917, the Bolsheviks deposed the Russian monarchy in a revolution and set up a Communist Government. One of the objectives of the Russian Communist Government was overthrow of all capitalist governments of the world and establishment of communist governments in their place. The Communist ideology had spread to the neighbouring countries. The Russian Communist Government supported the communist parties in setting up communist governments in Hungary, Bavaria,

Azerbaijan, Armenia and Georgia. This caused apprehension in other European countries that a violent communist revolution might also overwhelm them; they wanted to stop it and were even ready to use military force if required. In fact the German Nazism and the Italian Fascism, in part, were a reaction to Communism.

## 2. Nationalism

Nationalism was one of the major causes for the eruption of the First World War and so also the Second World War. "Nationalism was an extreme form of patriotism that swept across Europe during the 1800s. Supporters of nationalism placed loyalty to the aims of their nation above any other public loyalty. Many nationalists viewed foreigners and members of minority groups as inferior. Such beliefs helped nations justify their conquest of other lands and the poor treatment of minorities within their borders. ... Nationalism went hand in hand with feelings of national discontent. The more people felt deprived of national honour, the more they wished to see their country powerful and able to insist on its rights. Many Germans felt humiliated by their country's defeat in World War I and its harsh treatment under the Treaty of Versailles (Paris Peace Treaty). During the 1930s, they enthusiastically supported a violently nationalistic organization called the Nazi Party. The Nazi Party declared that Germany had a right to become strong again. Nationalism also gained strength in Italy and Japan."<sup>1</sup>

Explaining the meaning of nation, nationalism and its repercussions, Moulana Syed Abul A'la Maududi (author of the book under translation) writes in one of his books *Mas'ale Qaumiyyat* (Question of Nationalism), thus:

*"Meaning of Nationalism: As soon as man takes the first step from the state of wildness towards civilization, it*

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<sup>1</sup> *The World Book Encyclopedia*, Vol. 21, p. 471.

*becomes necessary that unity is forged in diversity and various people join together and work for common objectives and benefits. With the progression of civilization, the sphere of collective unity becomes wider and wider inasmuch as that a great number of human beings enter into it; this collection of human beings is known as a "nation." Although the words "nation" and "nationality" in their particular terminological meanings are of recent origin, the application of their meaning is as old as the civilization itself. The profile of "nation" and "nationality" was the same in Babel, Egypt, Rome and Greece as it is now in France, England, Germany and Italy."*

**"Inherent Demands of Nationalism:** *There is no doubt that nationalism begins with an innocent feeling and passion, i.e. its primary objective happens to be that a particular group of people work for their common good and interests and live as a "nation" for the fulfilment of their collective needs. But when this feeling grows in intensity, it inevitably acquires the hue of prejudice; the more the nationalism grows in intensity, the more grows the prejudicial intensity. Whenever a nation attaches itself to the strings of unity to serve and safeguard its interests, or in other words, constructs a boundary of 'nationalism' around it, inevitably it discriminates between those who are inside the boundary and those who are outside; it will prefer itself over others; and it will support itself against others. Whenever there happen to occur differences between it and the other nations with regard to the advantages and self-interests, it will protect its own interests and will sacrifice the interests of the others. Because of these reasons, there will be occasions for war and periods of peace between them. But whether war or peace, the demarcated lines of nationalism remain. This is what is called prejudice and fanaticism and are the essential peculiarities which nationalism generates."*

**"Constituents of Nationalism:** *Nationalism takes root from any one of the routes of unity and commonality, whatever that route might be, provided that it has the*

*tremendous binding and disciplinary power in it that could unite people on one common word, one common thought, one common objective and one common plan of action and firmly bind the different and numerous components of the nation in such a way that they become a solid rock, and exert such domination over the hearts and minds of the individuals of the nation that they remain united and be ready to offer any sacrifice in respect of their national interests.*

*"Many routes of unity and commonality are possible. But since the beginning of the history and even today the formation of all nations, except the Islamic nation, is made on any one of the following routes of commonality, though a few other features might also join in as associates.*

- *Racial Communion, which is known as "Racism."*
- *Regional Communion, which is called "Patriotism."*
- *Linguistic Communion, it plays an important role in the building up of nationalism because of it being a medium of conveying unity of thought.*
- *Communion based on Colour, which brings out the feeling of compatibility, and when this feeling grows it compels people to avoid and shun peoples of other colour and complexions.*
- *Economic Communion, which distinguishes people of a particular economic system against the followers of other economic systems and based on which they struggle against each other to safeguard their economic rights and benefits.*
- *Communion based on System of Government, which unites people of a state based on common laws and system of governance, and fixes limits and boundaries as against people of other states.*

*"Source of Evil and Strife: It is true that these Communions on which different nations have been built have successfully united different groups of people. Also it cannot be denied that these types of nationalities are a very serious kind of affliction for the human race. They have divided the humanity into hundreds of divisions. That too the nature of these divisions is such that a division can be*

*obliterated but cannot be converted to or merged into another division; a race cannot be converted into another race; a native country cannot be replaced with another native country; a mother tongue cannot take the place of another mother tongue; a complexion cannot replace another complexion; economic objectives of a nation cannot, in their entirety, become the objectives of another nation; a state cannot take the place of another state. Consequently, there cannot be any means of reconciliation between the nations which are built on the above Communions; because of nationalistic prejudices and bias nations are constantly engaged in competition, confrontation and rivalry with each other; they try to destroy each other and in doing so fight each other to extinction. These are permanent source of strife, chaos and evil in the world, the greatest curse of Allah and the greatest weapon of Satan with which he traps his eternal enemy, man."*

**"Irrational Bigotry and Fanaticism:** *The natural result of this type of nationalism is that it generates in man irrational bigotry and fanaticism. It exhorts a nation to hate and oppose another nation just on the perception that it happens to be a different nation. By doing so it is not at all concerned with justice, truth and honesty. It is enough for a white-skinned person to hate another person just because he happens to be black-skinned. Just because a person is of an Asian descent, it makes him fit for the hate and persecution of a European. It is enough for a German to hate a scientist like Einstein because he was a Jew. ... It is lawful for the so-called "civilized" Americans to burn alive the Negroes because they are Negroes. French being French and Germans being Germans is enough cause to hate each other, and to consider even each others good qualities defective and fallacious. It gives the British and the French full right to bomb and massacre the free Afghans and Arabs just because they happen to be Afghans and Arabs, while such acts if committed against the Europeans are considered horrific and barbaric. Anyhow,*

*the discriminations based on the above communions make man to turn a blind eye to truth and justice...*

*"Can there be any other more irrational thinking in man than to give preference to an evil, immoral, ill-mannered and vicious person over a decent, well behaved and pious person just because the former has taken birth in a particular race and the latter in another race; the former is white and the latter is black; the former was born on the western side of a hill or mountain and the latter on its eastern side; the former speaks a particular language and the latter speaks a different language; the former is a citizen of a particular state and the latter a citizen of a different state? Has the colour of the skin anything to do with the purity and impurity of the soul? Does the human intellect believe that the relationship to mountains and the rivers has anything to do with the goodness or badness of human character and morality? Can there be any place in the farthest corner of a good-natured human intellect to judge piety, nobility and the spirit of humanity on the basis of blood flowing in the veins, language spoken by the tongue and the dust of the birth-place and residence? Surely the human intellect will answer all these questions in the negative. But racism, patriotism and their kindred answer them most audaciously in the affirmative."*<sup>1</sup>

Before the advent of nationalism in its modern incarnation, it was in present in its traditional and crude form.

*"In the bygone ignorant era, the conception of nationality had not developed fully well. In place of nation, man's emotions were used to be linked with his race or tribe. Hence in that age instead of nationalism, racism was in force, and this racial bias had blinded even great philosophers and thinkers of the time. A thinker like Aristotle wrote [in his book Politics] that 'it is meet that Hellenes should rule over barbarians.' According to him*

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<sup>1</sup> Maududi, Syed Abul A'la, *Mas'ale Qaumiyat*, p. 5 to 11, Markazi Maktabe Islami Hind, India (1962).



*one among the many natural and lawful ways and means of acquiring wealth is 'to wage war to enslave those strata of human beings whom nature has created for this purpose alone.' This ideology becomes even more dreadful when we keep in view the fact that according to the Greeks 'barbarians' meant all non-Greeks and their basic conception was that the moral and human rights of Greeks were quite different from other human beings.*

*"This was the primitive germ of nationalism which later on got fully developed in Europe. The power which prevented the growth of this germ for a very long time was the influence of Christianity; teachings of a Prophet, however corrupted it might have become, at any rate, presents a broader and comprehensive human point of view than nationalism and racism. Along with this, the universal political system of the Roman Empire, at least, weakened the nationalist and racial prejudices by bringing in most of the smaller nations under a common authority. In this*

*way, for centuries both the spiritual influence of the Pope and the political power of the Emperor jointly were able to hold together the Christian world in a common bond. However, these two powers were not only collaborators in committing oppression and opposing scientific and scholarly progression, but also were rivals in the distribution of temporal power and wealth. On the one hand, their mutual rivalry and jostling, their misdeeds and oppression, and on the other hand the new scientific awakening gave birth to the political and religious movement in the 16th Century which is known as Reformation.*

*"The advantage of this movement was that it caused the downfall of the authority of the Pope and the Emperor which was inimical towards progress and reformation; but its disadvantage was that those nations who had been held together in a common bond got scattered. The Reformation could not provide the alternative to that spiritual affinity which had bounded different Christian nations. When different nations got separated from each other after the*

*severing of the bond of religious and political unity, they began forming different independent nation-states. Every nation's language and literature began progressing separately and every nation's economic interests began to be different from its neighbouring nations. This way, a new perception of nationality came into existence on racial, political, economical and cultural bases, which took the place of the racial perception of the bygone ignorant era. Consequently, endless rivalries, misunderstandings and competitions began to take root between different nations; wars were fought; nations usurped the rights of other nations; worst kind of acts of brutal oppression were displayed, because of which bitterness was seen increasing day by day in the nationalistic passions inasmuch as that this passion progressed gradually to convert into nationalism. This nationalism which came into existence in Europe in this fashion because of competition and conflict between neighbouring nations had essentially four factors:*

- 1. **National honour and prestige:** Takes the love for national traditions and peculiarities to the level of worship and considers one's nation superior to other nations in every aspect.*
- 2. **National fanaticism:** Encourages a person to support one's nation in every situation ignoring the question of truth and justice and irrespective of its actions being right or wrong.*
- 3. **National defence:** This stirs up every nation to adopt such ways and means to protect its actual or imaginary interests which begin from its defence and end in aggression...*
- 4. **National aggrandizement:** Develops a strong desire in every developed and powerful nation that it should achieve predominance and superiority over other nations of the world; should achieve a prosperous life at the expense of others; should think itself on a self-appointed mission to propagate its own particular culture and civilization amongst the under-developed nations; and declare the right to benefit from the natural resources of other countries as its birth-right.*

*"This is the European nationalism, intoxicated with which, some declares that 'Germany is supreme'; some announces that 'America, God's own country'; some asserts 'Italy means religion'; some conveys the message that 'To rule is the right of England'; and every nationalist religiously believes that 'Right or wrong, my country!' This lunacy of nationalism has become the greatest bane of humanity and is a danger to the human civilization. It converts man into a ferocious animal ready to devour every other nation except its own.*

*"The meaning of nationalism is just not that a man loves his nation and wants to see it develop and prosper. Had it been so, then it would have been a noble passion. But, more than love, it actually gives birth to and cultivates the feelings of rivalry, hate and revenge. The substance on which it thrives is essentially that fire which is kindled in the heart by the injured national feelings and crushed national ambitions, and this fire, this fanaticism, converts the noble feelings of love for a nation into a wicked and immoral passion. Outwardly, it begins with the objective of ameliorating the injustices, both actual and imaginary, committed against a nation by other nation or nations. However, since no moral instructions, spiritual teachings, and divine laws are available to guide and keep it within the legal and moral boundaries, this passion transgresses its limits and transforms into imperialism, economic nationalism, racial hatred, war and universal chaos and anarchy."*<sup>1</sup>

Albert L. Guerard, a US author and educator analyzes nationalism thus:

*"Nationalism is militant hatred. It is not love of our countrymen: that, which denotes good citizenship, philanthropy, practical religion, should go by the name of patriotism. Nationalism is passionate xenophobia. It is fanatical, as all forms of idol-worship are bound to be. And fanaticism – the infame denounced by Voltaire – obliterates or reverses the distinction between good and evil.*

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<sup>1</sup> Maududi, Syed Abul A'la, *Mas'ale Qaumiyat*, p. 101 to 105, Markazi Maktabe Islami Hind, India (1962).

*Patriotism, the desire to work for the common weal, can be, must be reasonable: 'My country, may she be right!' Nationalism spurns reason: 'Right or wrong, my country.'"*

Based on this immoral nationalism, it is claimed by some that only the developed and civilized nations have the right to exist as free nations. They also claim that it is the duty of such civilized nations to propagate their type of civilization in those countries and nations who are comparatively less developed and uncivilized, and for that purpose, military force can also be used. This argument was the basis on which the less developed nations of Africa and the Pacific were colonized by Europe and America. Darwin's theory of survival of the fittest is also put forth to justify colonization and economic exploitation of the weaker nations. It is true that existence of a nation-state is essential for the prosperity of a nation, and it is not just the economic prosperity but also the development of education, science, technology, its civilization, is dependent on the progress of the nation-state. However, this pursuit of economic prosperity automatically leads to economic nationalism. Every nation tries to prosper at the cost of other nations, and this results in cultivation of feelings of suspicion, rivalry, fear and hatred between different nations. Ultimately, this unhealthy economic competition ends in war; the disastrous First and the Second World Wars were fought because of this evil political and economic nationalism.

Contrary to the concept of nationalism, the Divine laws teach patriotism "which denotes good citizenship, philanthropy, practical religion," love for one's nation and love and justice for the entire humanity. Pointing out the salient differences between nationalism and the Divine laws (which can now be found, in its entirety, only in Islam), Moulana Maududi states:

*"...The principles and suppositions on which nationalism has been brought up are opposite to humanity and they*

*have brought man to the level of a ravenous animal. They are the principles which fill God's earth with persecution, oppression and bloodshed and stop peaceful development and progress of human civilization. These principles nullify the objectives for which the Prophets of Allah had been working from the very beginning. They cause man to become biased, bigoted and narrow-minded; by cultivating animosity between races and nations, they make them blind to truth, justice and humanity; and by giving importance to material power and brute force in place of truth, they strike at the very foundation of Divine laws.*

*"The objective of Divine Laws has always been to establish moral and spiritual relationships between human beings and make them cooperate with each other on a wider scale. On the other hand, nationalism cuts down these relationships with the scissors of racial and national discrimination, and by cultivating hatred between nations it develops enmity between human beings instead of love and cooperation.*

*"Divine Laws want to create more and more opportunities for free and unrestricted interaction between human beings as the progression of human culture and civilization is dependent on them; but nationalism places every kind of impediment before such interactions inasmuch as that it makes it difficult for the people of a nation under the influence of another nation even to breathe freely.*

*"The objective of the Divine Laws is to make available opportunities to every individual, every nation and every race to develop and cultivate their natural singularities and innate abilities so that they could perform their role in the upliftment of the human race as a whole. But nationalism generates in every nation and every race the aspiration that by acquiring more power, it should consider and declare other nations and races inferior, worthless and despicable, and by enslaving them prevent development of their natural innate abilities and eventually take away even their right to live.*

*"One of the fundamental principles of the Divine Laws is that the basic human rights shall be established on the basis*

*of ethics and morality instead of might; even a mighty person or group shall be made to honour the rights of the weakest person or group when the law and ethics are in their favour. But, against this, nationalism establishes the principle that might is right and that there is no right for the weak and the feeble, for he does not have the potency to acquire the required might.*

*"As the Divine Laws are not against gratification of human desires and cravings within ethical and moral boundaries, they are not against championing the cause of one's nation. Indeed, they support it because the development and progression of the entire humanity depends on every nation developing and progressing individually on its own. However, the Divine Laws want only that type of individual national progression which comes forward to help, to show sympathy and benevolence to the humanity at large... Contrary to this, nationalism creates a mentality in man that tells him to reserve all his strengths and capabilities for the grandeur of his own nation, and not only not help the humanity at large, but sacrifice the common good of the humanity for the benefit and advantage of his own nation. The position that "selfishness" holds in an individual's life, the same position "nationalism" holds in the collective life. A nationalist is narrow-minded by nature. He sees every commendable thing only in his own nation or race. He never witnesses any admirable thing in other nations or races which are equally entitled to survive.*

*"... Another inherent characteristic of nationalism is that it causes man to become a self-seeker. The purpose of the Divine Laws is to make man a devotee of principles and bind his actions to such lasting principles that do not change with changing motives and desires. But nationalism, on the contrary, makes man unprincipled. For a nationalist, there is no principle except that he wants to profit his nation. If the moral principles, religious ordinances, cultural ideals are helpful in achieving his objective, he would gladly believe in them, and if they*

*become an impediment he would readily give them up and adopt some other principles and ideals."*<sup>1</sup>

**Islamic Concept of Nationalism:** Since the Divine Laws as revealed by Allah to different Prophets in the past, before the advent of Prophet Muhammad (peace be upon him), are not available now in their original form, we have to refer to the Divine Law as portrayed by Islam to know about the concept of nationalism in the Divine Laws. Islam does not discriminate human beings on the basis of race, place of birth, language, colour, politics, and economic disparities; rather it gives a wider vision of humanity and believes in the unity of mankind. It proclaims that man's origin and lineage is one:

*"O mankind! reverence your Guardian Lord, Who created you from a single Person, created of like nature, his mate, and from them twain scattered (like seeds) countless men and women." (The Quran, 4:1)*

Islam further declares that the discrimination based on place of birth and death is not vital; indeed all human beings are one:

*"It is He Who has produced you from a single Person; here is a place of sojourn and a place of departure." (The Quran, 6:98)*

Islam also gives the correct perspective in which man has to consider the differences that exist between human beings based on families, tribes, nations and races. It states:

*"O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that you may know each other (not that you may despise each other). Verily the most honoured of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well-acquainted (with all things)."*

*(The Quran, 49:13)*

<sup>1</sup> Maududi, Syed Abul A'la, *Mas'ale Qaumiyyat*, p. 111 to 116, Markazi Maktabe Islami Hind (1962).

The above Verse is addressed to mankind as a whole. As it is, mankind is descended from one pair of parents. Their tribes, races, and nations are convenient labels by which we may know certain different characteristics, which help us to know each other better; they are not meant either to despise each other or quarrel with each other forgetting our common ancestry. If there is a real difference between man and man, it is based on righteousness; the most honoured amongst men are those who are most righteous. It further warns that the dissension and discord between groups of people, tribes and nations is actually a wrath of Allah which comes in the guise of growth of rivalries between different nations:

*"Say: He (Allah) has power to send calamities on you, from above and below, or to cover you with confusion in party strife, giving you a taste of mutual vengeance – each from the other." (The Quran, 6:65)*

Islam further declares that the earth belongs to Allah and that Allah has chosen mankind as His vicegerent on it and has made subservient to man all things found on earth and in the heavens. These bounties do not belong to any particular nation, family, or tribe; they belong to every human being who lives on the earth. The Holy Quran declares:

*"Behold, your Lord said to the angels: 'I will create a vicegerent on earth'." (The Quran, 2:30)*

*"Are you not aware that it is Allah who has made subservient to you all that is on earth, and the ships that sail through the sea at His behest – and (that it is He Who) holds the celestial bodies (in their orbits), so that they may not fall upon the earth otherwise than by His leave? Verily, Allah is Most Kind and Most Merciful to man."*

*(The Quran, 22:65)*

If you go through the Holy Quran, you will not find even a single word in favour of a particular nation or race; it addresses equally the entire mankind. It invites every individual of the mankind towards truth, piety and



righteousness; it neither distinguishes a particular nation nor has any special links with a particular part of the earth; the only special link that it has with a particular place is Makkah. However, it has not granted any special status to the original inhabitants of Makkah over the outsiders; they are all equal: *"The Sacred Mosque, which We have made (open) to (all) men – equal is the dweller there and the visitor from abroad"* (The Quran, 22:25). Therefore, Allah ordered expulsion of the pagans from Makkah and its vicinity who were its original inhabitants and declared them unclean when they refused to accept Islam even after repeated warnings and chances: *"O you who believe! Truly the pagans are unclean; so let them not after this year of theirs, approach the Sacred Mosque."* (The Quran, 9:25) Thus, Islam completely obliterates the concept of nationalism in all its shades and forms, and declares that every part of the earth belongs to the humanity and not to a particular family, tribe, nation, or race and that there should not be a bias based on these man-made discriminations. Prophet Muhammad (peace be upon him) very well understood that without obliterating racism and nationalism based on wrong perceptions, it was difficult to establish a universal brotherhood among mankind, and hence, through his teachings, further explained the teachings of the Holy Quran in this regard:

*"The person who dies for bigotry is not one of us; the person who propagates bigotry is not one of us; the person who battles in the cause of bigotry is not one of us."* (Reported by Jubair bin Mut'im: Abu Dawood)

*"These your lineages, indeed, bear no importance. You are all sons of Adam of equal status; none has any merit or excellence over others, for merit is counted on the basis of righteousness and religion. Just the evils of slander, stinginess and immorality are sufficient to reckon a man bad."* (Narrated by Uqbah bin 'Aamir: Musnad Ahmed)

He completely eliminated the discrimination in existence on the basis of race, nation, colour and language by saying:

*"No Arab has merit over a Persian, nor a Persian has merit over an Arab; no white has merit over a black or a black over a white except on the basis of righteousness. All are the progeny of Adam and Adam had been created with dust." (Zad al-Maad)*

He further instructed:

*"Listen and obey even if a black slave having a head like raisin were to be made your leader." (Narrated by Anas bin Malik)*

The above instruction was given to the nobles of the Quresh that they should listen and obey a black slave if he were to be made their leader; can a nationalist ever perceive such kind of equality?

Thus Islam destroyed all those irrational, restrictive, materialistic, sentimental and imaginary foundations on which different nations had been built and are being built. It completely obliterated all the illogical divisions of mankind based on race, colour, homeland, language, economic system, politics, etc. and built up a new nationalism based on logic and rationality. It invited the entire mankind towards a natural truth which is nothing but an invitation to worship Allah alone and obey Him and His Prophet in every walk of life, and then declared that those who accept the invitation are one nation and those who reject it are another nation; one nation comprises of those who believe in Islam and thus are Muslims, and the other nation comprises of those, in spite of all the differences present amongst them, who reject Islam and thus are unbelievers. Prophet Muhammad has further clarified this point in one of his sayings:

*"Indeed Allah has annihilated from you vainglory, arrogance and bragging on your ancestors. Now people are of two kinds - Righteous Believers and Wretched Sinners. You are all the progeny of Adam and Adam's creation was*

*from dust. Men ought to give up bragging about their ancestors; they have become [hot] coal pieces among the [hot] coal pieces of the hell. If these people do not give up this they would be more despicable than a dung beetle which pushes the dung with its nose. (Abu Dawood; narrated by Abu Huraira)*

The primary difference between these two groups is not lineage, race, colour, language, political and economic system, but Faith and Deeds. If a person proclaims his allegiance to Islam and acts according to its tenets and commands he automatically joins the Islamic nation irrespective of his lineage, race, colour, language, homeland, etc. Every Muslim whether he is from China or Morocco, whether he is white or black, whether he speaks Hindi or Arabic, whether he is an Aryan or a Semite, whether he is a citizen of a particular state or the other, is a member of Islamic nation and society, a citizen of Islamic State, a soldier of Islamic army, entitled to protection under the Islamic Law. There is no code in the Islamic Law which gives more or lesser rights to a Muslim than another Muslim on the basis of tribe, race, homeland or language.

But it should not be misconstrued that by setting up a separate Islamic nation on the basis of Islamic Faith and Deeds, Islam cuts off all family and human relationships. No, not at all; it ordains a Muslim to look after his parents and other kindred even if they remain non-Muslims:

*"And (Allah says:) 'We have enjoined on man (to be good) to his parents; in travail upon travail did his mother bear him, and in two years was his weaning; (hear the Command), 'Show gratitude to Me and to your parents; To Me is (your final) Goal. But if they strive to make you join in worship with Me things of which you have no knowledge, obey them not; yet bear them company in this life with justice (and consideration), and follow the way of those who turn to Me (in love).'" (The Quran, 31:14-15)*

Islamic nationalism is based on highest regards to the Will and Commands of Allah. "In any apparent conflict of

duties our standard should be Allah's Will, as declared to us by His command. That is the way of those who love Allah and their motive in disobedience to parents or human authority where disobedience is necessary by Allah's Law, is not self-willed rebellion or defiance, but love of Allah, which means the true love of man in the highest sense of the word."<sup>1</sup>

Moreover, it should be clearly understood that by declaring a separate Islamic nation, Islam has not ordained to sever all ties with other non-Islamic nations. There are two aspects of relationship between an Islamic nation and the other non-Islamic nations. One aspect is that as human beings both Believers in Islam and the non-Believers are all equal, and the other aspect is that belief in Islam and unbelief in it has separated Believers from non-Believers. As per the former aspect, Islam instructs its believers to treat people of all other nations with generosity, mercy and honour which they deserve as human beings. If they are not inimical towards Islam, it permits them to enter into treaties of friendship and peace and even permits them to cooperate with each other to achieve common objectives. However, there cannot be any material or worldly cooperation and partnership which leads to loss of the particular identity of the Islamic nation and its merger with another non-Islamic nation to form a new nation which is ideological different from an Islamic nation, because the latter aspect of the Islamic nation prohibits such a merger. It is impossible for an Islamic nation to join hands with a non-Islamic nation to form a combined nation. Therefore, Islamic nation is based on Belief and Deeds and not family, tribal or racial relations. It instructs its believers that they should give importance to Islamic Faith and Deeds and not to the human relationship and demands that when occasion arises

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<sup>1</sup> Abdullah Yusuf Ali; *The Holy Quran, Text, Translation and Commentary*, (New Revised Edition), p. 1037, Amana Corporation, Brentwood, Maryland, USA (1989).

to choose between Islam and family, tribal or racial relationship, they should choose Islam and sacrifice all other relationships. The Holy Quran instructs:

*"O you who believe! Take not for protectors your fathers and your brothers if they love infidelity above Faith: If any of you do so, they do wrong." (The Quran, 9:23)*

In Chapter 60, Verse 2, the Holy Quran further clarifies this point:

*"If they were to get the better of you, they would behave to you as enemies, and stretch forth their hands and their tongues against you for evil; and they desire that you should reject the Truth. Of no profit to you will be your relatives and your children on the Day of Judgment; He will judge between you: For Allah sees well all that you do."*

As regards the relationship with a non-Islamic nation, the Holy Quran is very clear that it should not be at the cost of Islam and interests of Islamic nation:

*"There is for you an excellent example (to follow) in Abraham and those with him, when they said to their people (nation): 'We are clear of you and of whatever you worship besides Allah; we have rejected you, and there has arisen, between us and you, enmity and hatred forever – unless you believe in Allah and Him alone.' " (The Quran, 60:4)*

### **3. Treaty of Versailles (Paris Peace Treaty)**

After the end of the First World War, the irrational Western nationalism made a glaring appearance in the shape of the Treaty of Versailles which was another major cause for the Second World War. This Treaty had not only imposed harsh, humiliating, improbable and impossible to fulfil conditions on the vanquished nations, generating more bitterness, resentment and hatred in the populations of the defeated nations against the victors, but had failed to satisfy even the victors. "Of all the countries on the winning side, Italy and Japan left the peace conference most dissatisfied. Italy gained less territory than it felt it deserved and vowed to take action on its own. Japan

gained control of German territories in the Pacific and thereby launched a programme of expansion. But Japan was angered by the peacemakers' failure to endorse the principle of the equality of all races."<sup>1</sup> Moreover, the terms of the Peace Treaty were worked out in haste by countries with opposing goals. Expressing his views about the terms of the Treaty of Versailles, Robert Lansing, American Secretary of State throughout the War, and one of the five American representatives at the Paris Peace Conference, writes:

*"... The impression made by it is one of disappointment, of regret, and of depression. The terms of peace appear immeasurably harsh and humiliating, while many of them seem to me impossible of performance.*

*"The League of Nations created by the Treaty is relied upon to preserve the artificial structure which has been erected by compromise of conflicting interests of the Great Powers and to prevent the germination of the seeds of war which are sown in so many articles and which under normal conditions would soon bear fruit. The League might as well attempt to prevent the growth of plant life in a tropical jungle. War will come sooner or later.*

*"... Examine the Treaty and you will find peoples delivered against their will into the hands of those whom they hate, while their economic resources are torn from them and given to others. Resentment and bitterness, if not desperation are bound to be the consequences of such provisions.*

*"...This war was fought by the United States to destroy forever the conditions which produced it. These conditions have not been destroyed. They have been supplanted by other conditions equally productive of hatred, jealousy and suspicion. ...The victors in this war intend to impose their combined will upon the vanquished and to subordinate all interests to their own.*

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<sup>1</sup> *The World Book Encyclopedia*, Vol. 21, p. 471.

*"... It is useless to close our eyes to the fact that the power to compel obedience by the exercise of the united strength of 'The Five' is a fundamental principle of the League. Justice is secondary. Might is primary. The League as now constituted will be the prey of greed and intrigue; and the law of unanimity in the Council, which may offer restraint, will be broken or render the organization powerless. It is called upon to stamp as just what is unjust.*

*"We have a treaty of peace, but it will not bring permanent peace because it is founded on the shifting sands of self-interest."*<sup>1</sup>

#### **4. Failure to Establish Peace – Result of Irrational Nationalism**

As stated earlier, after the War the leaders of the Great Powers, to please and assuage the aroused opinions of their people against war, gave the impression that they too wanted peace and were trying hard to establish peace in Europe ostensibly to rebuild it. But every effort in this direction resulted in failure because mutual hatred, rivalries and avarice for territories remained because of irrational nationalism based on race, homeland and language. The States who had lost resented their losses and those who had gained wanted still more. There were innumerable disputes not only between those States who had been enemies in the War but also between those who had been allies.

*"In the west of Europe there was the unappeased feud between France and Germany, drawing strength from the inability of Germany to pay the enormous reparations demanded of her, and from the incidents of the French occupation of the Ruhr in 1923. There was tension in the relations between France and Great Britain owing partly to the same question of the Ruhr. ...The east of Europe was in the throes of territorial redistribution and the economic adjustment accompanying it. Over 80 million of people had*

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<sup>1</sup> Lansing, Robert, *"The Peace Negotiations: A Personal Narrative,"* p. 272-275.

*been transferred in this quarter from one allegiance to another, and there was hardly a frontier which remained untouched. There was bitter contention between Germany and Poland over Upper Silesia, over Danzig and the Polish Corridor through former Prussian territory which gave Poland command of the Vistula and an outlet to the sea. There were disputes and rivalries and confused fighting incidental to the establishment of the independent States of the Baltic, Finland, Estonia, Latvia, and Lithuania. Finland contested with Sweden the sovereignty of the Aaland Islands (awarded to Finland by the League of Nations in 1921), and with Russia the possession of Karelia. Lithuania warred with Poland over the town of Vilna, and seized Memel in 1923 in defiance of the Paris treaties. Russia, struggling with internal chaos and civil war, was combating attempts, supported by French and British arms, to affect a counter-revolution, striving to win back her outlying provinces, and to convert Asia and Europe to Communism.*

*"Austria, mortally injured by the Peace of Saint-Germain, was in a state of political and economic collapse, despairing of life save by the union with Germany that was denied her. Hungary, similarly mutilated, was looking resentfully towards her lost provinces, incorporated since the Treaty of the Trianon in Yugoslavia, Rumania, and Czechoslovakia. Rumania and Russia were quarrelling over Bessarabia. Bulgaria, less heavily penalized, was nevertheless striving to secure a revision of the terms of Neuilly, demanding an outlet to the Aegean, invoking the principle of nationality to claim the return of her lost Bulgarians, who would not adapt themselves to Greek or Serbian dominion. Macedonia was still a storm-centre of the Balkans. The Adriatic coast was the subject of similar contentions between Italy, Yugoslavia, Greece, and Albania. Albania, who had been given independence by the Powers in 1908, had been deprived of it by the Powers in 1919 and partitioned between Italy, Serbia, and Greece. Indignant at her extinction, she took to arms to defend her independence, and after a short war succeeded in 1920 in winning its recognition. In Italy disappointment over the failure to win*



*Fiume at the Conference of Paris led to unauthorized coups d'état against that town, headed by the soldier-poet D'Annunzio, which embroiled Italy with Yugoslavia.*

*"Turkey too had taken up arms to defend herself from the Treaty of Sevres, and had driven the Greeks out of Asia Minor. There were rapid and startling nationalist movements in many parts of the Islamic world, in Egypt and Arabia. There were restless stirring in India. The Druses of Syria and the Rifis of Morocco were in revolt, and there were agitations in Kenya and in other parts of Africa. In the Far East there was the bitter protest of the Chinese nationalists against the 'betrayal' of the Treaty of Versailles, and the cession of German interests in Shantung to Japan.*

*"In the 'succession' states set up by the Powers there were acute minority problems. The clauses inserted in the treaties guaranteeing the rights of minorities to their own language and religion were often flagrantly violated, and the Hungarians of Rumania, the Germans and Ruthenians of Czechoslovakia, the Bulgarians of Greece, and the Croats and Montenegrins of composite Yugoslavia were discontented and unreconciled. ...there were several millions of homeless wanderers, driven out by persecution or war; Armenians, Greeks from Asia Minor, Bulgarians, Russians, and Turks. There was the elementary problem of feeding and housing them, and the complicated political and economic questions that accompanied it. There was the 'menace of Bolshevism' to Europe and Asia, and nearly every state suffered political crises of a more or less serious nature. Kings were overthrown and princes exiled."*<sup>1</sup>

Closely linked with the aforesaid external problems, almost all the States of the world suffered severe internal problems too; Mr. Ketelbey writes:

*"External problems were in many cases closely linked with, and complicated by, internal problems. There was hardly a State of importance that did not suffer serious internal disturbances during those years, some experiencing one or*

<sup>1</sup> Ketelbey, C.D.M., *A History of Modern Times from 1789*, p. 445-447.

*more violent revolutions, others long periods of chronic disorder. A revolution of extreme violence had overthrown the Tsarist regime of Russia in 1917. On the defeat of the Central Powers, revolutions broke out all over Germany and Austria, overturning the ancient Hohenzollern and Habsburg dynasties as well as the princes of the smaller German states. Serious communist movements gained temporary successes there and in Hungary. In Italy, the house of Savoy survived for a time, though it was completely eclipsed by the revolutionary Fascist triumph of 1922. The Balkan states were shaken by recurring agitations; the Greek monarchy, which, like the monarchies of Russia, Germany, and Austria, was made the scapegoat of national defeat, was overthrown in 1924 after the disastrous Anatolian war with Turkey. In Turkey, a spectacular Westernizing revolution, comparable to the Japanese revolution of 1867, abolished the Sultanate and the Caliphate, established a republican dictatorship, and introduced the Latin alphabet, the admission of women to public life, and other Western measures. In Spain, chronic disorder found a temporary remedy in the dictatorship of Primo de Rivera (1923-30), but his fall in 1930, a prelude to the downfall of the monarchy in 1931, accentuated the divisions and conflicts of Spanish political life. Provincial nationalism, native and imported anarchy, Communist and Fascist intervention, prepared the bitter and brutal civil war of 1936-39 from which the Nationalist forces, under the 'Caudillo,' General Franco, with Fascist and Nazi help, emerged victorious. In China, war and revolution went hand in hand. Civil war in Ireland, violence and agitation in India and Palestine, broke the peace of the British Empire, while serious strikes and Labour or Communist movements shook or threatened the stability of Governments in France and Britain."*<sup>1</sup>

The purpose of all the aforesaid upheavals, disturbances, revolutions, counter-revolutions, civil wars, bloodshed was not at all clear; there was no lofty cause, no

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<sup>1</sup> Ketelbey, C.D.M., *A History of Modern Times from 1789*, p. 455.

idealism, no defence or upholding of truth and no moral issues were involved. The only purpose seemed to be to fight for the supremacy of race, country and nation, and gain more and more wealth and territories at the cost of others. Mr. Ketelbey wonders:

*"It was by no means clear in what interest these revolutions were being formed and agitations conducted, what was the predominant influence behind them, or whether the immediate was also to be the ultimate beneficiary. Was it to secure nationalism or provincialism, democracy or despotism, secular materialism or freedom of thought, social welfare or predatory proletarianism, that empires were being shaken, thrones overturned, civil and international law defied, altars degraded, priests murdered, properties confiscated, order and confidence and security shattered? Part of the answer was seen in the new despotisms that emerged, some of them of unexampled ruthlessness."*

*"...From the Left came all the influences which may be grouped under the heading of Communism, comprehensive in their bearing (for they aimed at the destruction of a whole civilization and its reshaping on a new basis), revolutionary in their intention, theoretical and, originally, emancipating in their objective, instinctive, predatory, terroristic, and tyrannical in their operation."*

*"From the Right came, largely in reply to the challenge of Communism, a number of counter-revolutionary movements which, though they all had national integration as a common factor, cannot fairly be grouped under a single name. They included the comparatively moderate movement of Italian Fascism and the extreme manifestations of German National Socialism. They too were comprehensive, or 'totalitarian,' in their bearing, disciplinary, opportunist, expedient, or piecemeal in their programme and policy, dynamic in their character, revolutionary, predominantly instinctive, often predatory, terroristic and tyrannical in their operation."<sup>1</sup>*

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<sup>1</sup> Ketelbey, C.D.M., *A History of Modern Times from 1789*, p. 455-456.

From the above excerpt, it is very clear that both the Left and the Right movements were not trying to achieve any righteous and lofty objectives which could emancipate the humanity at large or at least their own people, nor their struggle was to uphold the universal truth, and to establish justice and peace; the objective of their struggle and sacrifices, at the most, was just to emancipate their own nations at the cost of others. Their struggle was "often predatory, terroristic and tyrannical."

For example, take the Communist revolution of Russia which can rightly be termed as the leading light of the Left movements. Lenin, who led the revolution, not only renounced all the imperialistic ambitions of the previous imperial government, but also took away the land from the landlords and gave it to the peasants for cultivation without payment and the factories to the workers. He also abolished money, disestablished the Church and began to prepare for a world revolution on the same lines. But these actions destabilized the entire country; the workers could not organize and manage the industries handed over to them as the capital disappeared and the workers themselves quite often refused to work; the peasants refused to sell their produce except in exchange for manufactured goods which the closed factories could not produce; this resulted in famine. Chaos, civil war and bloody reprisals reigned supreme in which thousands died of starvation or at the hands of fellow countrymen. Externally, Russia's former allies, because of her defection after the revolution, refused to recognize the new regime and sent military expeditions to support the counter-revolutions. This situation continued for a period of five years. However, Lenin was able to stabilize the situation by establishing an absolute dictatorship. He defeated all the counter-revolutionary movements; forced the foreign countries to abandon their intervention; made peace with Poland and the Baltic republics; and was successful in establishing diplomatic

and trading relations with the powerful nations of the world.

Lenin was able to establish internal peace in the country only by adopting the policy of terrorization – suppression of criticism, conscription of labour, frequent proclamation of martial law, extensive use of spies, seizure of hostages and wholesale executions. However, some constructive measures like permitting private enterprise and foreign investments; introduction of discipline and prohibition of strikes in the factories; introduction of new currency based on gold helped in the stabilization of the country.

After Lenin, Stalin<sup>1</sup> ruled Russia with an iron hand. He brooked no opposition and ruthlessly exterminated all his enemies and rivals. In addition, nearly 100,000 emerging class of independent farmers were put to death. "By concentration camp and firing squad, by extermination and elimination, by the rigid exclusion of every foreign or liberal influence, by stamping his own image on every act of State and appropriating all possible loyalties to himself, Stalin established and maintained a ruthless and comprehensive personal despotism."<sup>2</sup>

Fascism in Italy can be termed as an example of the Right movements of the time. Fascism took root in Italy under the dictatorship of Benito Mussolini when Italy, after the World War I, was passing through chaos, disorder and discontent from financial hardships, and disappointment over the peace terms. "She was affected by the new American restrictions on emigration; there were agrarian riots, strikes, and sabotage in the factories; there were Bolshevik [communist] demonstrations; the workmen seized the factories, the peasants the land. Italy seemed on

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<sup>1</sup> Stalin means "Man of Steel" and it was an assumed name; his real name was Josef Vissarionovich Djugashvilli.

<sup>2</sup> Ketelbey, C.D.M., *A History of Modern Times from 1789*, (Indian Edition, 1970) p. 460.

the verge of a Communist revolution."<sup>1</sup> In this situation Mussolini organized bands of ex-servicemen and young enthusiasts and in 1922 marched upon Rome and seized the government. The King of Italy, Victor Emmanuel, was too weak to resist Mussolini and invited him to form the new government. From the very inception, the intention of Mussolini and his Fascist Party was nationalistic in nature; they wanted to re-establish the past glory of Roman Empire by uniting Italy through the Fascist doctrine and discipline. Towards this end, Mussolini suppressed parliamentary government and all rival organizations. Strikes were prohibited and the freedom of Press was curbed to be the docile mouthpiece of official policy.

Another variant of these revolutionary movements was the National Socialist Revolution in Germany which was in response to the problems specifically faced by Germany after the Great War and to the particular German national temperament. Eventually, Adolf Hitler exploited the chaotic conditions obtaining in his country and gained absolute power. "He was head of the Administration and the Party; he possessed supreme legislative, executive, and judicial power; he nominated to all important positions; he had reduced the fourteen Ministries to merely advisory bodies; he controlled all internal and external policy. ...his enemies were in the grave, or in prison, or in Labour Camps; opposition was silent. The totalitarian, hierarchical, one-party State had been completed."

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<sup>1</sup> Ibid, p. 463.